

PROCEEDINGS OF THE BROWN COUNTY BOARD OF SUPERVISORS
SEPTEMBER 21, 2005

Pursuant to Section 19.84 and 59.14, Wis. Stats., notice is hereby given to the public that the REGULAR meeting of the **BROWN COUNTY BOARD OF SUPERVISORS** was held on **Wednesday, September 21, 2005, at 7:00 p.m.**, at City Hall, 100 N. Jefferson Street, Green Bay, Wisconsin.

The following matters will be considered:

Call to order.

Invocation.

Pledge of Allegiance to the Flag.

Opening Roll Call:

Present: Graves, Nicholson, Theisen, Krueger, Haefs, Erickson, Kaye, Zima, Evans,
Vander Leest, Johnson, Dantine, Frohna, Collins, Backmann, Van Deurzen,
Fleck, Clancy, Moynihan, Zabel, Scray, Hinz, Lund, Fewell

Excused: Van Den Heuvel, Beyl

Total Present: 24 Total Excused: 2

No. 1 -- Adoption of agenda.

A motion was made by Supervisor Evans and seconded by Supervisor Krueger **“to adopt the agenda as amended”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 2 -- Approval of minutes of County Board Meeting of August 17, 2005

A motion was made by Supervisor Johnson and seconded by Supervisor Dantine **“to adopt the minutes of the August 17, 2005 meeting”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 3 -- Announcements by Supervisors.

Supervisor Krueger announced that Tuesday night, September 27th, the Land Conservation Committee will take a tour of the Wiese Brother's Farm near Greenleaf. Supervisor Krueger invited all County Board Supervisors to join this farm tour. He added, the group will depart from

the Land Conservation Office, Bellevue Street, at 5:30 p.m. and will return at approximately 8:00 p.m.

No. 4 -- Communications.

No. 4a -- From Supervisor Tom Lund regarding: Request daily census at Mental Health Center since July 1, 2005 regarding patients over 18 years and patients under 17 years; and how many admission turn downs in the same period.

Refer to Human Services Committee.

No. 4b -- From Supervisor Steve Fewell regarding: Protected Health Care Information.

Refer to Executive Committee.

No. 5 -- Appointments by County Executive. (None)

No. 6a -- Report by County Executive.

County Executive Carol Kelso gave a presentation of the challenges she faces in developing her budget. She gave examples through a power point presentation explaining that the employee health care costs have increased \$5 million dollars and is the number one item driving budget increases. Ms. Kelso also explained Brown County will receive the same amount of dollars in Shared Revenue from the State in 2006 as it did in 2005, thus no increase. Also Brown County will not see any increase in State Medicaid; it will remain the same as 2005. Additionally, she said the Community Aid dollars (these are the dollars that counties receive from the State of Wisconsin to run our Mandated Human Services Programs) received are less than what we were receiving back in 1986. Ms. Kelso explained the property tax freeze and how that law limits Brown County raising property taxes. In closing, Ms. Kelso told Supervisors they will receive her budget in two weeks, adding if Supervisors decide to increase spending they will be increasing taxes.

No. 6b -- Report by Board Chairman.

Chairman Moynihan asked Standing Committee Chairpersons to check their calendars and set a date for their budget review.

Chairman Moynihan congratulated Nancy Anderson, Darlene Marcelle and Sherry Bously on winning the Women's Division of the 18th Annual Brown County Employee Golf Outing on September 12th.

Additionally, Chairman Moynihan reported that Supervisors Kaye, Fewell, Collins, Krueger and himself attended the Wisconsin Counties Association Conference in Milwaukee, September 18th – 20th. He explained the attendees were able to attend many interesting seminars. Chairman Moynihan encouraged the Supervisors to consider attending this conference next year. He added Supervisor Kaye moderated a panel, discussing the role of emergency management in Counties. Brown County's Emergency Management Director, Cullen Peltier was also in attendance and was a speaker.

No. 7 -- Other Reports. None.

No. 8 -- Standing Committee Reports.

No. 8a -- REPORT OF ADMINISTRATION COMMITTEE OF SEPTEMBER 7, 2005

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The ADMINISTRATION COMMITTEE met in regular session on September 7, 2005, and recommends the following motions:

1. Review minutes of:
 - a. Facility Master Plan Committee (8/25/05).
 - b. Housing Authority (8/15/05).Approve.
2. Communication from Supervisor Collins re: Requesting elimination of an attorney position in Corporation Counsel and creation of an attorney position in the County Board office. (Referred from August County Board.) Receive & place on file.
3. Corporation Counsel - Resolution re: Disallowance of Claim (Norbert A. Brunette). Committee approved Disallowance of Claim. See Resolutions, Ordinances September County Board.
4. Corporation Counsel - Resolution re: Disallowance of Claim (Walter C. Fish). Committee approved Disallowance of Claim. See Resolutions, Ordinances September County Board.
5. Human Resources - Monthly Committee Report (July, 2005). Approved.
6. Human Resources - Update from Human Resources regarding employees requesting appeals of Class & Comp study. Receive & place on file.
7. Dept. of Administration - 2005 Budget Transfer Log. Approved.
8. Dept. of Administration - Request from Chair Lund at last month's meeting: Progress and process (format) of budget. Approved.
9. **Closed Session:** For the purpose of considering compensation data (vacation) of any public employee over which the governmental body has jurisdiction or exercises responsibility, pursuant to Sec. 19.85(1)(c), Wis. Stats.
 - a. Enter into closed session.
 - b. Return to regular order of business.
 - c. No action taken.
10. Audit of bills. Approve the bills.

A motion was made by Supervisor Fleck and seconded by Supervisor Kaye “to adopt”. Voice vote taken. Supervisors Zima, Scray and Vander Leest abstained from item #1b of Administration Committee Report (Housing Authority). Motion carried.

Approved by: \s\ Carol Kelso, County Executive Date: 10/14/2005
No. 8b -- **NO REPORT OF THE EDUCATION AND RECREATION COMMITTEE**

No. 8c -- **REPORT OF EXECUTIVE COMMITTEE OF SEPTEMBER 12, 2005**

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on September 12, 2005 and recommends the following motions:

1. Review minutes:
 - a) Legislative Subcommittee (8/22/05).
Receive & place on file.
2. County Executive. (No report.)
3. Internal Auditor Report. Receive & place on file.
4. Legislative Subcommittee Report.
 - a) Washington County Resolution re: Opposition to Department of Natural Resources Use of Wildlife Damage Funds for Chronic Wasting Disease. Committee approved. See Resolutions, Ordinances September County Board.
 - b) Review of Dissemination of Dunn County Resolution re: Funding for Wisconsin WIC Program. Receive & place on file.
 - c) Review of Dissemination of Outagamie County Resolution re: Oppose Real Estate Transfer Fees retained by the County that are collected in conjunction with the Transfer of Real Estate. Committee approved. See Resolutions, Ordinances September County Board.
 - d) Jackson County Resolution (#31-6-05) and Outagamie Resolution (#43-2005-06) re: Property Taxpayers of Wisconsin have told our State Elected Officials that they want the cost of the Courts and Human Services off of the Property Tax and deserve an answer on how the State plans to heed their wishes.
 - i) Strike the paragraph in Outagamie County Resolution lines 23, 24 & 25.
 - ii) Committee approved resolution as amended.See Resolutions, Ordinances September County Board.
5. Communication from Supervisor Fewell re: Human Resources posting of positions. (Previous meeting: *Refer to staff to develop proper language regarding posting of positions and bring back at September meeting and that the language include: 1) that the department head be prohibited from determining that a vacancy is best filled internally 2) that there be posting for all County employees; and 3) that there be outside public*

- posting including website advertisement.)* (From previous meeting.) Refer back to staff for the next meeting.
6. Communication from Supervisor Haefs re: Request to review the county rule on removing from the table those items tabled by a standing committee. (From previous meeting.) Approve.
7. Communication from Supervisor Steve Fewell re: Internal Auditor's Access to Information.
- a) That the County Board request RFP's for outside computer programming consultants to determine costs incurred for enabling the Brown County Internal Auditor access of financially legal records (only) of the current payroll system. (No vote taken.)
- b) Amend motion to include the phrase "during the interim time period, that the Internal Auditor will have unfettered access to all information until this is solved." Ayes: 4 (Lund, Moynihan, Jr., Evans, Kaye.) Nays: 3 (Dantinne, Haefs, Vander Leest). Motion Approved.
- c) Vote taken on amended motion: "That the County Board request RFP's for outside computer programming consultants to determine costs incurred for enabling the Brown County Internal Auditor access of financially legal records (only) of the current payroll system. During the interim time period, that the Internal Auditor will have unfettered access to all information until this is solved." Ayes: 4 (Lund, Moynihan, Jr., Evans, Kaye. Nays: 3 (Dantinne, Haefs, Vander Leest). Motion Approved.

AS PER THE COUNTY BOARD, ON 9/21/2005, ITEM #7 IS RECEIVED AND PLACED ON FILE.

8. Resolution re: Aging Resource Center Change in Table of Organization – Request for Additional Social Workers and Disability Specialist Staff. (Referred from Human Services Committee.) Committee approved. See Resolutions, Ordinances September County Board.
9. Ordinance re: Amending Section 2.05 (14) of the Brown County Code relating to Procedural Rules Items Tabled at the Standing Committee Level. Committee approved. See Resolutions, Ordinances September County Board.
10. Resolution re: Clerk of Courts Reclassification of Three (3) Clerk Typist II Positions and Title Change. (Referred from Public Safety Committee.) Committee approved. See Resolutions, Ordinances September County Board.
11. Appointment of Supervisor Tom Hinz to the Community and Cultural Affairs Committee. Approve.
12. **Closed Session:** For the purpose of deliberating whenever competitive or bargaining reasons require a closed session pursuant to Wisconsin State Statute 19.85 (1) (e). In the alternative, the Executive Committee is meeting for the purpose of collective bargaining and is not subject to the Wisconsin open meetings law pursuant to 19.82 (1) of the Wisconsin State Statutes, and also for the purpose of conferring with legal counsel for Brown County as to legal advice concerning strategy as to litigation pending pursuant to sec. 19.85(1) (g) of the Wisconsin State Statutes. (No closed session held.)

A motion was made by Supervisor Lund and seconded by Supervisor Hinz **“to adopt”**. Supervisor Lund requested Item #7 be taken separately. Remainder of report passed unanimously with no abstentions.

Item #7 -- Communication from Supervisor Steve Fewell regarding: Internal Auditor's Access to information. COMMITTEE ACTION: (a) That the County Board request RFP's for outside computer programming consultants to determine costs incurred for enabling the Brown County Internal Auditor access of financially legal records (only) of the current payroll system. (No vote taken.) (b) Amend motion to include the phrase “during the interim time period, that the Internal Auditor will have unfettered access to all information until this is solved.” Ayes: 4 (Lund, Moynihan, Evans, Kaye). Nays: 3 (Dantinne, Haefs, Vander Leest). Motion Approved. (c) Vote taken on amended motion: “That the County Board request RFP's for outside computer programming consultants to determine costs incurred for enabling the Brown County Internal Auditor access of financially legal records (only) of the current payroll system. During the interim time period, that the Internal Auditor will have unfettered access to all information until this is solved.” Ayes: 4 (Lund, Moynihan, Evans, Kaye). Nays: 3 (Dantinne, Haefs, Vander Leest). Motion Approved.

Supervisor Lund said he was told this issue was resolved today and he asked County Board Chair Moynihan, to explain how this issue was resolved.

At this time Chair Moynihan accepted a motion by Supervisor Lund and seconded by Supervisor Kaye **“to receive and place on file item #7”**. Voice vote taken. Motion carried unanimously with no abstentions.

Under discussion, Chairman Moynihan deferred to Internal Auditor, Sara Perrizo, to explain the compromise. Ms. Perrizo said she was contacted earlier this week, as well as today, by Cindy Archer and Payroll Supervisor Heidi Hietpas. Ms. Perrizo said they arrived at somewhat of a compromise that includes her accessibility to a Court Writer Program written by Heidi Hietpas. Ms. Perrizo said she will be able to run a report at any given time for all financial criteria for the payroll system, which is linked directly to the County's payroll system. She'll have real time data and she will be able to run it from her computer at any given moment. Sara explained she submitted a list of 23 items that she wanted to have access to and she was given access to 22 of those 23 items. She feels this was a compromise, adding she learned from Heidi Hietpas where the files were coming from. Sara added that our current system is very antiquated and if we had a newer system, this problem would not have happened.

Addressing questions from Supervisors, Ms. Perrizo explained the 22 files she received includes all the financial information present on the screens on the payroll system, examples being employment dates, gross wages, allotted vacations; all relevant information needed to do her job. It eliminated Social Security Numbers, home addresses, telephone numbers. This information eliminates personally identifiable information other than names.

No further discussion. Vote taken on motion to receive and place on file. Passed unanimously with no abstentions.

Approved by: /s/ Carol Kelso, County Executive

Date: 10/14/2005

No. 8d -- REPORT OF HUMAN SERVICES COMMITTEE OF AUGUST 18, 2005

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The HUMAN SERVICES COMMITTEE met in regular session on August 18, 2005, and recommends the following motions:

1. Review minutes of:
 - a) Human Services Board (7/7/05).
 - b) Children with Disabilities Education Board (7/13/05).
 - c) Community Options Program Appeals Cmte (6/27/05).
 - d) Aging Resource Center Board (7/22/05).
 - e) Aging Resource Center (7/12/05).Receive & place on file.
2. Communication from Supervisor Nicholson re; Requesting discussion on public input and comment to propose changes to the Public Nuisance/Odor Ordinance. Have an update from Packerland Packing at the next meeting.
3. Communication from Supervisor Zabel re: Requesting a date and time change for all future Human Services Committee meetings during this term. (Set meeting date for 2nd Wednesday of the month at 6 p.m.) Receive & place on file.
4. Communication from Supervisor Andy Nicholson: Request to Review the Policy of the Health Dept. After-Hours Services (from May 18th meeting with motion: Hold item for update in 90 days). Receive & place on file.
5. Director's report. Receive & place on file.
6. Mental Health Center budget presentation Receive & place on file.
7. Linda Roethle from Bellin to answer Supervisors' questions. Receive & place on file.
8. Adolescent unit – Request for Vote on Closure of the Unit. Hold this, pending a memorandum of understanding between Brown County and Bellin Psychiatric Center.
9. Draft letter to Mayor and City Council re: Fire Inspection Issues. Receive & place on file.
10. Security Consultant's study report (Facilities). Hold until next meeting.
11. Contract Update (standing item requested by Chair Pat Evans). Approved.
12. Resolution re: Change in Table of Organization – Request for Additional Social Workers and Disability Specialist Staff. (Referred to Executive Committee) Committee approved. See Resolutions, Ordinances September County Board.
13. Request for Budget Transfer: Increase in Expenditures with offsetting Increase in Revenue: Aging Resource Center received a grant through Human Services Dept. from Wisconsin Department of Health & Family Services to implement an Aging Resource & Disability Center (\$291,859). Committee approved.
14. Audit of bills. Pay the bills.

A motion was made by Supervisor Fleck and seconded by Supervisor Hinz “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Carol Kelso, County Executive

Date: 10/17/2005

No. 8e -- REPORT OF HUMAN SERVICES COMMITTEE OF SEPTEMBER 16, 2005

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The HUMAN SERVICES COMMITTEE met in regular session on September 14, 2005, and recommends the following motions:

1. Review minutes of:
 - a) Board of Health (5/5/05 & 6/20/05).
 - b) Homeless Issues & Affordable Housing Sub Cmte --Unofficial Minutes – (8/16/05).
 - c) Veterans’ Recognition Sub Committee (8/9/05).Receive & place on file items a – c.
2. Communication from Supervisor Collins re: Requesting a presentation on the current status and future plans concerning the Brown County Mental Health Center. Receive & place on file.
3. Communication from Supervisor Collins re: Requesting the County maintain the current staffing services and funding levels of the Veterans Service Office. Receive & place on file.
4. Health Department - Communication from Supervisor Nicholson re: Requesting discussion on public input and comments to propose changes to the Public Nuisance/Odor Ordinance. (From previous meeting with motion to have an update from Packerland Packing.)
 - a) Receive & place on file the update from Packerland Packing.
 - b) Hold this and have the Health Department report back at their next meeting what their recommendations are.
5. Health Department - Director’s report. Receive & place on file.
6. Human Services Dept. - Contract Update (standing item requested by Chair Pat Evans). Receive & place on file.
7. Audit of bills. Pay the bills.

A motion was made by Supervisor Van Deurzen and seconded by Supervisor Fleck “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Carol Kelso, County Executive

Date: 10/17/2005

No. 8f -- **REPORT OF PLANNING, DEVELOPMENT AND TRANSPORTATION
COMMITTEE AND LAND CONSERVATION SUBCOMMITTEE OF
AUGUST 24, 2005**

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE & LAND CONSERVATION SUBCOMMITTEE met in regular session on August 24, 2005, and recommends the following motions.

Land Conservation Subcommittee

1. Letter to DNR requesting winter spreading plan provision be added to Brow Request for Budget Transfer: Increase in Expenditures with Offsetting Increase in Revenue: \$2,000 in donations from Wisconsin Land & Water Conservation Association to employ a summer intern at \$8 per hour to assist the Land Conservation Dept in installing buffer strips through CREP program and West Shore Buffer Project for Northern Pike Habitat. Committee approved.
2. Animal Waste Management Ordinance Variance request to build Manure Storage Facility closer than 250 feet from property. Rick Loppnow, Section 31, Glenmore. (Maps & supporting documentation to be distributed at meeting.) Committee approved.
3. Deer Donation program update – John Bechle. Committee approved.
4. Well information packets (to be distributed at meeting). Receive and place on file.
5. Suamico River Buffer project update – Jim Jolly. (To be distributed at meeting.) Receive and place on file.
6. Set fall tour for September. No action.
7. Director's Report. No action.

Planning, Development & Transportation Committee

1. Review minutes of:
 - a) Planning Commission Board of Directors (7/6/05).
 - b) Harbor Commission (7/11/05).
 - c) Solid Waste Board (6/13/05).
 - d) Land Information Office (LIO) Committee (5/18/05).Receive and place on file items a – d.
2. Highway/Planning Commission - Roundabout Informational Presentation and Discussion. Receive and place on file.
3. Highway/Planning Commission - Communication from Supervisor Earl Van Den Heuvel re: To defer funding for the Eaton Road, Huron Road & Cottage Road intersection (roundabout) and any further county highway projects until the village of Bellevue signs a

- letter stating to the County that the Village agrees to build a county road along with the County (Cottage). Held from previous meeting. Receive and place on file.
4. Highway - Commissioner's report. No action.
 5. Airport - Director's report. No action.
 6. Bay-Lake Regional Planning Commission - Resolution re: Concurrence with the District Comprehensive Economic Development Strategy (CEDS) 2004 Annual Report. Committee approved and referred to the County Board. See Resolutions, Ordinances September County Board.
 7. Zoning - Repeal of Brown County Code of Ordinances Chapter 22 Shorelands, Floodplains and Wetlands. Approve the repeal.
 8. Zoning - Approval of Brown County Code of Ordinances:
 - a) Chapter 22 Shorelands and Wetlands. Committee approved.
 - b) Chapter 23 Floodplains. Committee approved.See Resolutions, Ordinances September County Board.
 9. Zoning - Director's report. No action.
 10. UW-Extension - Approve \$100 donation from the law offices of Calewarts, Duffy, Maxwell, & Gagen for the 4-H Youth Development Program. Committee approved.
 11. UW-Extension - Approve \$1,300 donation from Food, Ecosystem, & Educational Demonstration Sites (FEEDS) for an organic fruit tree initiative. Committee approved.
 12. UW-Extension - Director's report. No action.
 13. Port/Solid Waste - Communication from Supervisor Zabel re: Request for external audit of all funds comprised within the Solid Waste budget. (Referred from August County Board.) Request the Solid Waste Board review funds within the budget for possible reallocation.
 14. Closed Session: Pursuant to Sec. 19.85 (1) (c) considering employment, promotion, compensation, or performance evaluation date of a public employee over which the Committee has jurisdiction or exercises responsibility. No closed session held.
 15. Audit of bills. Committee approved.

A motion was made by Supervisor Krueger and seconded by Supervisor Erickson **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

No. 8g -- REPORT OF PUBLIC SAFETY COMMITTEE OF SEPTEMBER 7, 2005

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PUBLIC SAFETY COMMITTEE met in regular session on September 7, 2005, and recommends the following motions:

1. Review minutes/reports of:
 - a) FoxComm User Technical Committee (6/15/05).
Receive & place on file.
2. Communication from Supervisor Collins re: Wisconsin Act 40. Hold for one month.
3. Invite local legislators, as well as Congressman Green, to next Public Safety Committee meeting to address their concerns with illegal aliens that are not being picked up for deportation from jail and the need for a Federal Immigration Officer in Northeast Wisconsin. No action.
4. Request Facilities Management to give an estimate on what the cost would be to provide outlets to five court rooms. Hold until budget meeting.
5. Request Facilities Management for a discussion of jail space for Communications Center and other areas. Receive & place on file.
6. Discussion on the possibility of establishing a Brown County Employee of the Month award. Hold for one month.
7. Volunteers in Probation – Monthly Statistics ending July 31, 2005. Receive & place on file.
8. Public Safety Communications - Request to apply for the Fiscal Year 2005 Homeland Security Equipment Grant. Approve.
9. Public Safety Communications - Director's Report. Receive & place on file.
10. Public Safety Communications - Letter of Commendation to Jim Nickel, Director, Public Safety Communications. (From previous meeting.) Committee adopted and forwarded to County Board Office for finalization. _See Resolutions, Ordinances September County Board.
11. Sheriff - Key Factor Report 2005 with Jail Average Daily Population by month and overtime by expenditures by division/session 2005 – for September 2005 meeting including jail medical statistics. Receive & place on file.
12. Sheriff - Draft Letter from Supervisor Kaye & Sheriff Kocken to Bellevue Village President, Bob Schlag, urging him to support adding additional officers to Bellevue. (From previous meeting.) No action.
- ** AS PER THE COUNTY BOARD, ITEM #12 WAS ADOPTED BY THE COUNTY BOARD ON 9/21/2005.
13. Sheriff's report. Receive & place on file.
17. Clerk of Courts - Resolution re: Clerk of Courts Reclassification of Three (3) Clerk Typist II Positions and Title Change. (Referred to Executive Committee.) Committee approved. See Resolutions, Ordinances September County Board.
18. **Closed Session:** Pursuant to Sec. 19.85 (1) (c) considering employment, promotion, compensation, or performance evaluation date of a public employee over which the Committee has jurisdiction or exercises responsibility. (No Closed Session held.)
19. Audit of bills. Approve audit of bills.

A motion was made by Supervisor Kaye and seconded by Supervisor Clancy "to adopt". Supervisor Erickson abstained from item #17.
Supervisor Evans requested item #12 be taken separately. Voice vote taken. Remainder of report carried unanimously with no abstentions.

Item #12 -- Sheriff – Draft Letter from Supervisor Kaye and Sheriff Kocken to Bellevue Village President, Bob Schlag, urging him to support adding additional officers to Bellevue. (From previous meeting.) COMMITTEE ACTION: No action.

Supervisor Evans explained this item seems to be a recurring item on the Public Safety Committee Report. He questioned if there has been any contact with Village of Bellevue's President, Mr. Schlag. Public Safety Committee Chairperson, Supervisor Kaye, explained representatives from Bellevue met with the Committee and the result being that Bellevue would place a referenda item on the April 2006 Ballot to address adding additional officers. No further discussion.

A motion was made by Supervisor Evans and seconded by Supervisor Kaye **“to adopt item #12 of the Public Safety Committee Report”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive

Date: 10/17/2005

No. 9 -- Resolutions, Ordinances

No. 9a -- RESOLUTION REGARDING: DISALLOWANCE OF CLAIM (NORBERT A. BRUNETTE)

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies & Gentlemen:

WHEREAS, a Claim was filed on June 6, 2005, in the Brown County Clerk's office; and

WHEREAS, said Claim alleges that Norbert A. Brunette sustained damages, and alleges that said damages were caused by Brown County and officials and employees of Brown County; and

WHEREAS, after a review of this matter by the Corporation Counsel's office, said office recommends that the Claim be denied.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the Claim submitted by Norbert A. Brunette be and the same is hereby denied, and no action on this Claim may be brought against Brown County or any of its officers, officials, agents or employees after six months from the date of service of this notice.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the claimant, Norbert A. Brunette and his attorney, John C. Gower, as a notice of disallowance.

Respectfully submitted,
ADMINISTRATION COMMITTEE

A motion was made by Supervisor Van Deurzen and seconded by Supervisor Lund “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

No. 9b -- RESOLUTION REGARDING: DISALLOWANCE OF CLAIM (WALTER C. FISH)

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies & Gentlemen:

WHEREAS, a Claim was filed on July 22, 2005, in the Brown County Clerk's office; and

WHEREAS, said Claim alleges that Walter C. Fish sustained damages, and alleges that said damages were caused by Brown County and officials and employees of Brown County; and

WHEREAS, after a review of this matter by the Corporation Counsel's office, said office recommends that the Claim be denied.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the Claim submitted by Walter C. Fish be and the same is hereby denied, and no action on this Claim may be brought against Brown County or any of its officers, officials, agents or employees after six months from the date of service of this notice.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the claimant, Walter C. Fish, as a notice of disallowance.

Respectfully submitted,
ADMINISTRATION COMMITTEE

A motion was made by Supervisor Van Deurzen and seconded by Supervisor Scray “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

No. 9c -- ORDINANCE REGARDING: AMENDING SECTION 2.05(14) OF THE BROWN COUNTY CODE RELATING TO PROCEDURAL RULES ITEMS TABLED AT THE STANDING COMMITTEE LEVEL

THE BROWN COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

Section 1: Section 2.05(14) of the Brown County Code is hereby amended to read as follows:

Section 2.05(14) of the Brown County Code: Each standing committee's recommendations within its area of policy oversight shall be forwarded from the committee to the County Board, without review by any other standing committee, except as provided in these rules. Those items, matters, and/or recommendations which have been indefinitely or permanently tabled at the standing committee level may be removed from the table and taken up by ~~the County Board by a majority vote of the members present of the County Board of Supervisors~~ any County Supervisor. Any County Supervisor should have the opportunity to raise any issue or tabled item from Committee actions for full County Board discussion when adequate public notice is given that this item will be on the Board agenda.

Section 2: This ordinance shall take effect upon passage and publication. Adopted this 21st day of September, 2005.

Respectfully Submitted,
EXECUTIVE COMMITTEE

A motion was made by Supervisor Evans and seconded by Supervisor Dantine "to adopt". Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____	<u>\s\ Carol Kelso, County Executive</u>	Date: 10/17/2005
Approved by: _____	<u>\s\ Darlene K. Marcelle, County Clerk</u>	Date: 10/18/2005
Approved by: _____	<u>\s\ Patrick Moynihan, Jr., Board Chairman</u>	Date: 10/19/2005

No. 9d -- RESOLUTION REGARDING: OPPOSITION TO DEPARTMENT OF NATURAL RESOURCES USE OF WILDLIFE DAMAGE FUNDS FOR CHRONIC WASTING DISEASE

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Wisconsin Department of Natural Resources (DNR) has determined that the Brown County deer population is well over manageable goals; and

WHEREAS, deer damage has steadily increased, causing more farmers to claim damage to crops; and

WHEREAS, the DNR has transferred \$6.04 million from Wildlife Damage to Chronic Wasting Disease (CWD) research; and

WHEREAS, starting in 2002 with damage claims, farmers may not receive full damage reimbursement as a result of this transfer to CWD research; and

WHEREAS, deer hunting license surcharges are to be used for wildlife damage, not CWD research; and

NOW THEREFORE, BE IT RESOLVED BY THE BROWN COUNTY BOARD OF SUPERVISORS THAT the board opposes the use of the Wildlife Damage Funds for purposes not related to wildlife damage claims and abatement;

BE IT FURTHER RESOLVED, that the County Clerk forward a copy of this resolution to Brown County's State Legislators, the Governor, the Secretary of the Department of Natural Resources, the Wisconsin Counties Association and the other Wisconsin Counties.

Respectfully submitted,
LAND CONSERVATION COMMITTEE
EXECUTIVE COMMITTEE

A motion was made by Supervisor Krueger and seconded by Supervisor Erickson "to adopt". Voice Vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

No. 9e -- **RESOLUTION REGARDING: OPPOSITION OF REAL ESTATE
TRANSFER FEES RETAINED BY THE COUNTY THAT ARE
COLLECTED IN CONJUNCTION WITH THE TRANSFER OF REAL
ESTATE**

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, currently a county retains twenty percent (20%) of all real estate transfer fees collected by the county and submits the balance to the state. The state Assembly budget bill would change this by transferring fees retained by the county that are collected in conjunction with the transfer of real estate in a first class city to be transmitted to the first class city. In essence shifting revenue creates hardships to the counties. This resolution opposes this change.

NOW THEREFORE, BE IT RESOLVED BY THE BROWN COUNTY BOARD OF SUPERVISORS THAT the board does hereby oppose real estate transfer fees retained by the County that are collected in conjunction with the transfer of real estate, be transferred to any other entity which would cause a shift in revenue and create a hardship for counties, and

BE IT FURTHER RESOLVED, that the County Clerk forward a copy of this resolution to the Wisconsin Counties Association, the Wisconsin Register of Deeds Association and to the representatives in our Wisconsin legislature.

Respectfully submitted,
EXECUTIVE COMMITTEE.

A motion was made by Supervisor Fleck and seconded by Supervisor Van Deurzen “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: /s/ Carol Kelso, County Executive Date: 10/17/2005

No. 9f -- **RESOLUTION REGARDING: TO REMOVE THE COST OF THE
CIRCUIT COURTS AND HUMAN SERVICES PROGRAMS FROM THE
PROPERTY TAX**

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, Wisconsin counties are mandated by the state to administer the Circuit Court system and Human Services; and

WHEREAS, both the Circuit Courts and Human Services are statewide programs that were designed to be funded predominantly by state tax revenues; and

WHEREAS, over the course of the past several decades the state government has allowed the cost increases for Circuit Courts and Human Services to fall almost solely on the property tax; and

WHEREAS, counties in Wisconsin are putting forth 270 million property tax dollars more than they were eighteen years ago to support individuals served through Community Aids while the state is providing 28 million less in state tax dollars; and

WHEREAS, over two decades ago the Thompson Administration and the Legislature began what was supposed to be a phase-in assumption of Circuit Court costs by the state, while today over eighty million dollars remains on the property tax; and

WHEREAS, the Kettl Commission, much like previous commissions, concluded very specifically and forcefully that “...Wisconsin ought to move, as soon as possible, to state funding for these (human services and state justice service programs) functions.”; and

WHEREAS, on the April 5, 2005 the voters of this state spoke with resounding clarity when 85% voted in favor of full state funding for Human Services programs and 86% voted in favor of full state funding for Circuit Courts; and

WHEREAS, the Legislature and Governor are currently considering a “property tax freeze” which would preempt counties from raising the revenues necessary to comply with these mandated services and still provide quality of life services to our residents.

NOW THEREFORE, BE IT RESOLVED BY THE BROWN COUNTY BOARD OF SUPERVISORS THAT it hereby calls upon the Governor and Legislature to take immediate action addressing this clear will of the people.

BE IT FURTHER RESOLVED, the property taxpayers of this state have told our state elected officials that they want the cost of the Circuit Courts and Human Services off of the property tax and deserve and answer on how the state plans to heed their wishes.

Respectfully submitted,
EXECUTIVE COMMITTEE.

A motion was made by Supervisor Kaye and seconded by Supervisor Vander Leest “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

No. 9g -- **RESOLUTION REGARDING: AGING RESOURCE CENTER CHANGE
IN TABLE OF ORGANIZATION – REQUEST FOR ADDITIONAL
SOCIAL WORKERS AND DISABILITY SPECIALIST STAFF**

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Brown County Board of Supervisors has adopted a resolution supporting the development of an Aging and Disability Resource Center for Brown County on January 19, 2004; and

WHEREAS, the Brown County Department of Human Services and the Brown County Aging Resource Center have jointly submitted a request for funding to the Wisconsin Department of Health and Family Services to develop an Aging and Disability Resource Center (ADRC); and

WHEREAS, the Wisconsin Department of Health and Family Services has approved the request for funding to develop an Aging and Disability Resource Center (ADRC); and

WHEREAS, the Brown County Department of Human Services and the Brown County Aging Resource Center desire to commence with the implementation of an Aging and Disability Resource Center (ADRC); and

WHEREAS, the implementation of an Aging and Disability Resource Center (ADRC) will require additional staff to perform the functions and duties required by the Wisconsin Department of Health and Family Services,

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the Aging Resource Center table of organization be changed to delete .50 FTE LTC In-Home Worker, delete .25 FTE LTC I&A Worker, delete .75 FTE Outreach Advocate, add 3.0 FTE I & A Specialists, add 2.0 LPN I&A Specialists, add 1.5 FTE Disability Benefit Specialists, add .75 FTE Workers Registration Specialist, add .50 FTE Resource Data Specialist, and add 1.0 Elderly Benefit Specialist, effective upon passage of this resolution.

BE IT FURTHER RESOLVED that funds for personnel and other appropriate operating costs required to implement and maintain the Aging and Disability Resource Center (ADRC) shall be allocated annually from the Wisconsin Department of Health and Family Services grant, previously referred to herein, beginning in 2005 and continuing thereafter for the duration of the grant period. The funds allocated for 2005 shall be in the amount agreed upon between the Brown County Human Services department and the Aging and Disability Resource Center as set forth in the budget transfer to be presented to the Brown County Board of Supervisors subsequent to the approval of this resolution. The funds allocated for 2006 and thereafter shall be in the amount agreed upon between the Brown County Human Services department and the Aging and Disability Resource Center and shall be incorporated into the Brown County Human Services department and the Aging and Disability Resource Center annual budgets respectively.

Respectfully submitted,
HUMAN SERVICES COMMITTEE
EXECUTIVE COMMITTEE

Fiscal Note:

The implementation for this program is fully funded by an Aging and Disability Resource Center Expansion Grant, CFDA Number 435-1400, signed July 20, 2005, by Sinikka Santala of DHFS, in the total amount of \$338,394 for the period 07/01/05, from the Wisconsin Department of Health and Family Services to the Brown County Human Services Department and subsequently contracted out to the Aging Resource and Disability Center. The 2005 Aging Resource and Disability Center budget will be amended to reflect an increase in revenues and an increase in expenditures totaling \$291,859.

A motion was made by Supervisor Fewell and seconded by Supervisor Johnson **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: /s/ Carol Kelso, County Executive

Date: 10/17/2005

No. 9h -- **RESOLUTION REGARDING: CONCURRENCE WITH THE DISTRICT
COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY (CEDS)
2005 ANNUAL REPORT**

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, Brown County has participated with the other seven counties in the District Overall Economic Development Program since 1978; and

WHEREAS, an annual report must be prepared to maintain a current perspective of the economic development issues of the County and District; and

WHEREAS, an annual report maintains eligibility of funding from the Economic Development Administration for the district and also serves to emphasize the importance of local issues for other Federal and State agencies; and

WHEREAS, personnel from this County and the Bay-Lake Regional Planning Commission have participated in the preparation of the annual report; and

WHEREAS, an increased level of understanding and cooperation between agencies would improve opportunities for economic development in the District; and

WHEREAS, the Brown County Board of Supervisors actively supports and currently participates in the economic development district activities of the Bay-Lake Regional Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Brown County Board of Supervisors hereby concurs with the Comprehensive Economic Development Strategy 2005 Annual Report; and

BE IT FURTHER RESOLVED, that the Brown County Board of Supervisors supports the Bay-Lake Planning Commission's application to the Economic Development Administration for planning funds; and

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the County Clerk's of Door, Florence, Marinette, Kewaunee, Manitowoc, Oconto and Sheboygan as an expression of Brown County's desire to cooperate with them in the Bay-Lake Economic Development District; and

BE IT FURTHER RESOLVED, that two originally signed copies of this resolution be forwarded to the Bay-Lake Regional Planning Commission.

Submitted by,
PLANNING, DEVELOPMENT AND
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Erickson and seconded by Supervisor Clancy “to adopt”.
Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive Date: 10/17/2005

**No. 9i -- ORDINANCE REGARDING: BROWN COUNTY CODE OF
ORDINANCES, CHAPTER 22, SHORELANDS AND WETLANDS**

THE BROWN COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

**CHAPTER 22
SHORELANDS AND WETLANDS
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SHORELANDS AND WETLANDS

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

22.01 STATUTORY AUTHORIZATION. This ordinance (Chapter 22) for shoreland protection is adopted pursuant to the authorization in ss. 59.69, 59.692, 59.694, and 281.31, Wis. Stats. NR 115 Wisconsin Administrative Code. These rules and laws shall apply until amended and then shall apply as amended.

22.02 FINDING OF FACT. Uncontrolled use of the shorelands and pollution of the navigable waters of Brown County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Brown County, Wisconsin.

22.03 PURPOSE. For the purpose of promoting the public health, safety, convenience and welfare, this ordinance has been established to:

- (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - (a) Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
 - (b) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
 - (c) Controlling filling and grading to prevent serious soil erosion problems.
- (2) Protect spawning grounds, fish and aquatic life through:
 - (a) Preserving wetlands and other fish and aquatic habitat.
 - (b) Regulating pollution sources.
 - (c) Controlling shoreline alterations, dredging and lagooning.
- (3) Control building sites, placement of structures and land uses through:
 - (a) Separating conflicting land uses.
 - (b) Prohibiting certain uses detrimental to the shoreland area.
 - (c) Setting minimum lot sizes and widths.
 - (d) Regulating side yards and building setbacks from waterways.
- (4) Preserve shore cover and natural beauty through:
 - (a) Restricting the removal of natural shoreland cover.
 - (b) Preventing shoreline encroachment by structures.
 - (c) Controlling shoreland excavation and other earth moving activities.
 - (d) Regulating the use and placement of boathouses and other structures.

22.04 TITLE. This ordinance constituting Chapter 22 of the Brown County Code, shall be known, cited and referred to as: The Shorelands and Wetlands Ordinance for Brown County, Wisconsin.

GENERAL PROVISIONS

22.05 AREAS TO BE REGULATED. Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas in Brown County and any incorporated areas in Brown County that contract with Brown County, unless those incorporated areas have adopted their own shoreland and wetland ordinance that is as restrictive or more restrictive than this ordinance.

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Brown County shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication "Surface Water Resources of Brown County" or are shown on United States Geological Survey quadrangle maps or other zoning base maps.
- (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Brown County shall be presumed to be navigable if they are

- designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.
- (3) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.
 - (4) Under s. 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated there under, this shoreland zoning ordinance does not apply to lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river;
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) Such lands are maintained in nonstructural agricultural use.
 - (5) The Brown County Private Sewage System Ordinance (Chapter 11 of this Code), the Brown County Floodplains Ordinance (Chapter 23 of this Code) and the Brown County Subdivision Ordinance (Chapter 21 of this code) as referred to in this ordinance have been adopted separately and are applicable throughout Brown County where there is jurisdiction.

22.06 SHORELAND ZONING MAPS. The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Brown County.

- (1) United States Geological Survey Quadrangle Maps for Brown County. (most recent)
- (2) Wisconsin Wetland Inventory maps received on June 5, 1990 and January 12, 1993 and revised maps as received.
- (3) Floodplain Zoning Maps as indicated in Ch. 23 Floodplains.

22.07 COMPLIANCE. The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 22.37 for standards applicable to nonconforming uses.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for compliance with the terms of this ordinance.

22.08 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. If cities or villages have their own shoreland

ordinance it must meet the minimum requirements of ch. NR 115, Wis. Adm. Code. State agencies are required to comply when s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4)(a), Wis. Stats., applies.

22.09 ABROGATION AND GREATER RESTRICTIONS. The provisions of this ordinance supersede all the provisions of any county zoning ordinance adopted under s. 59.692, Wis. Stats., which relate to shorelands. However, where an ordinance adopted under a statute other than s. 59.692, Wis. Stats., is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (1) This ordinance shall not require approval or be subject to disapproval by any town or town board.
- (2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise.
- (3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (4) The following provisions of the Brown County Floodplains Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

22.10 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in ch. NR 115, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

22.11 SEVERABILITY. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

LAND DIVISION

22.12 REVIEW. The county shall review, pursuant to s. 236.45, Wis. Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review the following factors shall be considered:

- (1) Hazards to the health, safety or welfare of future residents.

- (2) Proper relationship to adjoining areas.
- (3) Public access to navigable waters, as required by law.
- (4) Adequate storm drainage facilities.
- (5) Conformity to state law and administrative code provisions.

DIMENSIONS OF BUILDING SITES

22.13 LOTS NOT SERVED BY PUBLIC SANITARY SEWER.

- (1) Minimum area and width for each main building: The minimum lot area shall be 40,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark.
 - (a) Smaller lots allowable under the Brown County Subdivision Ordinance (Chapter 21) of the Brown County Code under Plan Unit Developments or Conservation Designed Subdivisions. A minimum common area of 100 feet in depth must be maintained from the ordinary high-water mark to any substandard lot as defined by NR 115.

22.14 LOTS SERVED BY PUBLIC SANITARY SEWER.

- (1) Minimum area and width for each main building: The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet with at least 65 feet of frontage at the ordinary high-water mark.
 - (a) Smaller lots allowable under the Brown County Subdivision Ordinance (Chapter 21) of the Brown County Code under Plan Unit Developments or Conservation Designed Subdivisions. A minimum common area of 100 feet in depth must be maintained from the ordinary high-water mark to any substandard lot as defined by NR 115.

22.15 SUBSTANDARD LOTS.

- (1) Substandard lots served by a public sanitary sewer: A substandard lot served by a public sanitary sewer which is at least 7,000 sq. ft. in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the ordinary high-water mark may be used as a building site for a single family dwelling upon issuance of a shoreland permit by the zoning administrator if it meets all of the following requirements:
 - (a) The lot was on record in the county register of deeds office prior to March 19, 1969.
 - (b) The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and the substandard lot were owned by the

same owner as of the effective date of this ordinance, the substandard lot shall not be sold or used without full compliance with the terms of this ordinance, including minimum area and width requirements found in sections 22.13 and 22.14 of this ordinance.

- (c) All other dimensional requirements of this ordinance will be complied with.
- (2) Substandard lots not served by public sanitary sewer: A substandard lot not served by public sanitary sewer which is at least 10,000 sq. ft. in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the ordinary high-water mark may be used as a building site for a single-family dwelling upon issuance of a shoreland permit by the zoning administrator if it meets all of the requirements of section 22.15(1)(a)(b)(c) of this ordinance. The provisions of the Brown County Private Sewage System Ordinance (Chapter 11) shall also apply.
- (3) Other substandard lots: Except for lots which meet the requirements of sections 22.15(1) or 22.15(2), a shoreland permit for the improvement of a lot having lesser dimensions than those stated in sections 22.13 and 22.14 shall be issued only after granting of a variance by the Board of Adjustment.
- (4) Lots in cluster subdivisions: Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the Brown County Subdivision Ordinance (Chapter 21) and Brown County Private Sewage System Ordinance (Chapter 11).

SETBACKS FROM THE WATER

22.16 LOTS THAT ABUT NAVIGABLE WATER. All buildings and structures, which also include decks, patios, fences, gazebos and screen houses shall be set back at least 75 feet from the ordinary high-water mark of navigable water (See sec. 22.20 Shoreland Permit-Special). Boathouses, boat hoists, piers, stairways, and landings are exempt from this setback provided that stairways and landings are essential for access to the water.

- (1) Standards for access: A stairway, walkway or lift is permitted in the shoreland setback area only when it is essential to provide pedestrian access to the pier because of steep slopes, rocky or wet, unstable soils, and when the following conditions are met:
 - (a) There are no other locations or facilities on the property which allow adequate access to a pier. Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted to or is immediately adjacent to the existing stairway.
 - (b) Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas.
 - (c) They must be constructed in a way that minimizes soil and vegetative disturbance.
 - (d) Vegetation which stabilizes slopes or screens structural development from view shall not be removed.
 - (e) Structures shall be colored and screened by vegetation so as to be inconspicuous when viewed against the shoreline.

- (f) Canopies, roofs and sides are prohibited. Open railings may be provided where required for safety.
- (g) A maximum width of 4 feet (outside dimension) is allowed for stairways, walkways and lifts.
- (h) Landings are allowed when required for safety purposes and shall not exceed 40 square feet. Attached benches, seats, tables, etc., are prohibited.
- (i) Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavating that is proposed must comply with the requirements of this ordinance (See sections 22.28 and 22.29).

- (2) The Zoning Office staff or local Department representative shall determine the ordinary high-water mark where not established.

22.17 REDUCED BUILDING SETBACKS. A setback less than the normal 75 foot setback required may be permitted for a principal building by the zoning administrator where there is at least one principal building within 300 feet on either side of the subject lot that is built less than the required setback. In such case, the setback shall be the average of the setbacks of the nearest principal building on each side of the proposed site or, if there is an existing principal building on only one side, the setback shall be the average of the existing building's setback and the required setback. No structure shall be permitted closer than 40 feet to the ordinary high-water mark using setback average unless a variance is obtained from the Board of Adjustment pursuant to section 22.43 of this ordinance.

22.18 CRITICAL SLOPE SETBACK. *All residential, commercial or industrial structures shall be set back a minimum of 20 feet from the top ridgeline of a 20% or greater slope measured to the foundation. Elevation change will be analyzed to determine how steep or significant the slope is to decide the applicability of this section. Decks, patios, stairways, fences, gazebos, screen houses, pools, boathouses and storage sheds can be located within the 20 foot setback but must not exceed a building footprint of 500 square feet. If a geotechnical study is completed for the proposed area, a shoreland permit may be issued for a structure within the 20 foot setback subject to being constructed following the recommendations of the study. A certificate of compliance will need to be completed by the responsible architect or engineer after construction and prior to occupancy. This certificate must be returned to the Zoning Office within 60 days of completion of the project.*

- (1) Special exceptions. A special exception permit shall be required for the following:

- (a) For any proposed encroachment into the critical slope setback not identified in 22.18

22.19 BOATHOUSES.

- (1) Boathouses shall be designed and constructed solely for the storage of boats and related equipment and shall not be used for human habitation.
- (2) Boathouses shall set back a minimum 5 feet from the ordinary high-water mark.

- (3) Only one boathouse is permitted on a lot.
- (4) All boathouse construction or repair shall be constructed utilizing accepted soil and water conservation practices and any erosion control.
- (5) No decks or platforms are permitted on the boathouse.
- (6) Boathouses shall have at least a 6/12 pitch.
- (7) Boathouses shall not exceed 500 square feet in area.

22.20 SHORELAND PERMIT - SPECIAL. As authorized under s. 59.692(1v), Wis. Stats, a special shoreland permit can be issued for a structure within the shoreland setback area if all of the following conditions are met:

- (1) The part of the structure that is nearest the water is located at least 35 feet landward from the ordinary high-water mark.
- (2) The total floor area of all the structures existing and proposed in or extending into the shoreland setback area of the property shall not exceed 200 square feet. In calculating this square footage, boathouses, boat hoists, piers, wharves, stair and landing shall be excluded.
- (3) The structure that is the subject of the request for a special shoreland permit has no sides or has open or screened sides, and has a maximum height from the lowest grade to the highest point of any structure of 15 feet. Any permitted roof shall not be designed or used as a deck, observation platform, or for other similar uses. The color of the structure or the use of the structure must not be prohibited by other zoning regulations or deed restrictions (e.g. floodplain regulations). Retaining walls are not included in this classification since they have solid, not open sides.
- (4) The owner(s) or their agent must submit a plan that will be implemented by the owner of the property to establish, preserve, enhance and/or restore a vegetative buffer zone that covers 70% of the half of the shoreland setback area that is nearest the water. The plan must be approved by the Department.
 - (a) The shoreland setback for the purpose of this section shall be 75 feet or a lesser setback that has been approved by setback averaging, variance, or is a preexisting non-conforming setback.
 - (b) For the plan to be approved, it must be binding on the owner, his/her heirs, successors, and assignees, and must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by the Zoning Office and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
 - (c) Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the Zoning Office to revoke the special shoreland permit and order the removal of any structure(s) authorized by a special shoreland permit.
 - (d) To be considered for approval, a plan to establish, preserve, enhance and/or restore a vegetative buffer zone shall, at minimum, contain:

1. A description of how the landowner intends to carry out the project, including methods, materials and equipment to be used;
 2. A proposed schedule and sequence of work activities;
 3. The names, descriptions and densities of native species to be utilized in the restoration work, including ground cover, shrubs and tree layers;
 4. A description of the site before the project begins and a description of the proposed site once the buffer is completed; and
 5. The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff and protect water quality.
- (e) To be considered for approval, a plan to establish, preserve, enhance, and/or restore an existing native vegetative buffer zone shall, at a minimum, contain:
1. A description of how the homeowner intends to maintain the buffer including “mowing” plans;
 2. Supplemental plantings of native species;
 3. Removal of non-native species (e.g. purple loosestrife); and
 4. The erosion control measures that will be used during construction of the permitted structure and any disturbance in the vegetative buffer zone due to planting or removal of non-natives to control sediment, runoff and protect water quality.
- (f) The plan must be implemented and the vegetative buffer planted and vegetation must be viable, growing condition for at least one growing season before a special shoreland permit to build a structure is granted or approval must be obtained from the Department based on a field onsite of the property.
- (g) A shoreland grading permit may be required to implement a vegetative buffer zone plan.
- (h) Removal of the shore yard structure will not relinquish the recorded agreement or permit the removal, destruction, degradation and/or reduction in size of the shoreland vegetative buffer.

22.21 SHORELAND - AGRICULTURAL. The following uses shall be permitted within the Shoreland District or as defined by the Brown County Land Conservation Department on their most current hazard maps to the extent that they are not prohibited in a particular area by any underlying zoning ordinance. The hazard maps can be found at the Brown County Land Conservation Department or on their website:

http://www.co.brown.wi.us/Land_Conservation/HazMaps/index.html

- (1) Agricultural uses are permitted providing they comply with the provisions of the ordinance.
- (a) A minimum of 35 feet of land free of row crops and seeded to grass, alfalfa, or other close-growing crop shall be maintained between the farmed area and the

edge of the navigable stream; navigable stream crossings shall be permitted for livestock and shall be of a design deemed appropriate by the County Land Conservation Department. A farmer may be exempt from this section if soil and water conservation practices are deemed sufficient and no pollution is occurring in the opinion of the County Land Conservation Department.

- (b) If there is a pollution problem resulting from the grazing or pasturing of livestock, the farmer/operator will be required to erect a fence no closer than 16-1/2 feet of the edge of the navigable stream or otherwise abate the pollution in such a manner as may be determined by the County Land Conservation Department. If a fence has to be erected, provision will be allowed for watering livestock in the navigable stream.

REMOVAL OF SHORE COVER

22.22 PURPOSE. The purpose of tree and shrubbery cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. The provisions shall not apply to the removal of dead, diseased or dying trees or shrubbery at the discretion of the landowner, or to silvicultural thinning upon recommendation of a Department forester.

22.23 SHORELINE CUTTING. Tree and shrubbery cutting in an area parallel to the ordinary high-water mark, and extending 35 feet inland from all points along the ordinary high-water mark, shall be limited in accordance with the following provisions:

- (1) No more than 30 feet in any 100 feet, or 30% for lots less than 100 feet as measured along the ordinary high-water mark, may be clear cut to the depth of the 35 foot area.
- (2) Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- (3) Any natural shrubbery removed exceeding the standards set in 22.23(1) and 22.23(2) shall be replanted at the owner's expense.

22.24 PATHS AND ROADS. Any path, road or passage within the 35 foot area shall be constructed and surfaced so as to effectively control erosion. The access for vehicles shall not exceed 10 feet in width or run parallel to the ordinary high-water mark within 35 feet.

22.25 CUTTING PLAN. As an alternative to section 22.23, a special cutting plan allowing greater cutting may be permitted by the Board of Adjustment by issuance of a special exception permit, pursuant to section 22.42. An application for such a permit shall include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, proposed cutting, and proposed replanting. The Board may grant such a permit only if it finds that such special cutting plans:

- (1) Will not cause undue erosion or destruction of scenic beauty.

- (2) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the board may require the submission of a bond which guarantees the performance of the planned tree or shrubbery replacement by the lot owner.
- (3) Is approved by the Department.

22.26 CUTTING MORE THAN 35 FEET INLAND. From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

22.27 COMMERCIAL FORESTRY. From the inland edge of the 35 foot strip to the outer limits of the shoreland jurisdictional area, the commercial harvesting of trees shall be allowed when accomplished under accepted forest management practices. The maintenance and improvement of water quality shall be emphasized in all timber harvesting operations. The purpose of this order will favor long-lived species adapted to the site and will prescribe slash disposal methods necessary for aesthetic value.

FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

22.28 GENERAL STANDARDS. Erosion control is required as per Best Management Practices. Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under section 22.29 may be permitted in the shoreland area provided that:

- (1) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- (2) Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of sections 22.34(2) and 22.34(3) of this ordinance.
- (3) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

22.29 PERMIT REQUIRED.

- (1) Filling, grading, lagooning, dredging, ditching and excavating. Erosion control is required as per Best Management Practices. A permit is required for any shoreland area as defined in this ordinance and on which there is either:
 - (a) At least 1,000 square feet of filling, grading and excavating.
 - (b) Filling of more than 500 square feet within 100 feet of any shoreland wetland.
 - (c) Not more than 20,000 square feet of filling, grading and excavating within 100 feet of a navigable water.
- (2) Special exceptions. A special exception permit shall be required for the following:

- (a) For any filling, grading and excavating of any area within the shoreland district which is within 100 feet horizontal distance of navigable water and on which there is:
 - 1. Filling, grading and excavating greater than 20,000 square feet.
 - (b) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high-water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.
 - (c) This subsection (2) does not apply to soil conservation practices such as terraces, runoff diversions, grassed waterways, waste storage facilities, and channel restoration, which are used for sediment reduction. All projects designed by other Brown County departments, DNR, USF & WS, NRCS, and other governmental departments will not require a special exception permit, only a shoreland permit will be required. The shoreland permit fee will be waived when the agency designing the project will have direct supervision over the construction. A letter must be provided to this office by that agency upon completion indicating the project was completed as permitted. The DOT is exempt from permit requirements when section 30.12(4)(a), Wisconsin Statutes, applies.
 - (d) Municipal projects designed by licensed architects or engineers will not require a special exception permit, only a shoreland permit will be required.
- (3) Conditions. In issuance of a shoreland permit or in granting a special exception permit for filling or grading, the Board or Zoning Office may attach the following conditions in addition to the provisions specified in Section 22.42 that:
- (a) The smallest amount of bare ground be exposed for as short a time as feasible.
 - (b) Temporary ground cover such as mulch be used and permanent cover such as sod be planted.
 - (c) Diversions, silting basins, terraces, and other methods to trap sediment be used.
 - (d) Fill is stabilized according to accepted engineering standards.
 - (e) Fill will not restrict a floodway or destroy the storage capacity of a floodplain.
 - (f) Sides of a channel or artificial watercourse be stabilized to prevent slumping.
 - (g) Sides of channels or artificial watercourses be constructed with side slopes of two units horizontal distance to one unit vertical or flatter, unless bulkheads or rip rapping are provided.
 - (h) In shoreland areas with no floodplain mapped a minimum 35 foot no fill area is required from the ordinary high-water mark. If floodplain analysis is submitted and approved by the Department the 35 foot no fill area may be reduced.

22.30 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE.

- (1) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under section 22.29

when designed and constructed to Natural Resource Conservation Service technical standards.

(2) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:

- (a) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross section unless a special exception permit under section 22.29(2) is obtained.
- (b) Ditch banks shall be constructed at a slope of 2 horizontal to 1 vertical (50% grade) or flatter.
- (c) Ditch banks shall be maintained in a sod cover and free of woody vegetation.
- (d) A 12 foot wide buffer strip of untilled, ungrazed sod cover shall be maintained adjacent to the ditch bank.

22.31 PERMIT CONDITIONS. In granting a special exception permit under section 22.29(2), the Board of Adjustment shall attach the following conditions, where appropriate, in addition to those provisions specified in sections 22.42(2) and 22.42(3):

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (4) Lagoons shall be constructed to avoid fish trap conditions.
- (5) Fill shall be stabilized according to accepted engineering standards.
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

SHORELAND-WETLAND DISTRICT

22.32 DESIGNATION. This district shall include all shorelands within the jurisdiction of this ordinance which are wetlands of five acres or more as shown on the Brown County Wetlands Zoning Maps adopted by the Brown County Board of Supervisors on January 19, 1983. The Brown County Wetland Zoning Maps are based on the Wisconsin Wetland Inventory Maps stamped received on June 5, 1990 and January 12, 1993 which are hereby adopted and incorporated by reference and revised maps as received. Any wetlands of two acres or more shown on the Wisconsin Wetland Inventory Maps which have not been rezoned pursuant to Section 22.36 of this ordinance shall be subject to the provisions of this ordinance to the same extent as if shown on the Brown County Wetland Zoning Maps.

Provisions of this section shall apply only to navigable waters shown on the USGS Quad maps or determined to be navigable based on written navigability determinations by the Department.

- (1) Locating shoreland-wetland boundaries. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The zoning administrator shall initiate a map amendment to correct the discrepancy.

22.33 PURPOSE. This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

22.34 PERMITTED USES. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of chs. 30 and 31, Wis. Stats. and the provisions of other applicable local, state and federal laws:

- (1) Activities and uses which do not require the issuance of a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except as allowed under sections 22.34(2) or 22.34(3).
 - (a) Hiking, fishing, trapping, hunting, swimming, and boating;
 - (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (c) The pasturing of livestock;
 - (d) The cultivation of agricultural crops;
 - (e) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
 - (f) The construction or maintenance of duck blinds.
- (2) Uses which do not require the issuance of a shoreland permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

- (a) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
 - (b) The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
 - (c) The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
 - (d) The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (e) The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
 - (f) The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which require the issuance of a shoreland permit under section 22.40 and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (a) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 1. The road cannot, as a practical matter, be located outside the wetland;
 2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in section 22.36(2);
 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 4. Road construction activities are carried out in the immediate area of the roadbed only.
 - (b) The construction or maintenance of nonresidential buildings provided that:
 1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
 2. The building cannot, as a practical matter, be located outside the wetland;
 3. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and

4. Only limited filling or excavating necessary to provide structural support for the building is authorized.
- (c) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch. 29, Wis. Stats., where applicable.
 2. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in section 22.34(3)(a)1- 4.
 3. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
 4. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
 - a. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in section 22.36(2).

22.35 PROHIBITED USES. Any use not listed in sections 22.34(1), 22.34(2) or 22.34(3) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 22.36 of this ordinance and s. 59.97(5)(e), Wis. Stats.

22.36 REZONING OF LANDS IN THE SHORELAND-WETLAND DISTRICT.

- (1) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate district office of the Department shall be provided with the following:
 - (a) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland

- Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
- (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
 - (c) A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
 - (d) Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.
- (2) A wetland or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
- (a) Storm and flood water storage capacity;
 - (b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 - (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (d) Shoreline protection against soil erosion;
 - (e) Fish spawning, breeding, nursery or feeding grounds;
 - (f) Wildlife habitat; or
 - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
- (3) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in section 22.36(2) of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.971(6), Wis. Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.971(6) adoption procedure is completed or otherwise terminated."

NONCONFORMING

22.37 NONCONFORMING USES AND STRUCTURES. The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the

provisions of this ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (1) If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.
- (2) The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary high-water mark of any navigable waters shall comply with the requirements of s. 30.121, Wis. Stats.
- (3) If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.
- (4) Uses which are nuisances shall not be permitted to continue as nonconforming uses.
- (5) No structural alteration, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50 percent of its current estimated fair market value unless it is permanently changed to conform to the requirements of this ordinance.
- (6) If the alteration, addition or repair of a building or structure with a nonconforming use or a nonconforming building or structure is prohibited because it is in excess of 50 percent of the current estimated fair market value, the property owner may still make the proposed alteration, addition or repair if:
 - (a) A nonconforming use is permanently changed to a conforming use;
 - (b) The property owner appeals the determination of the zoning administrator and either the county Board of Adjustment or the circuit court find in the property owner's favor under ss. 59.99(4) or 59.99(10), Wis. Stats.
 - (c) The property owner successfully petitions to have the property rezoned by amendment to this ordinance in accordance with section 22.46 of this ordinance and s. 59.97(5)(e), Wis. Stats.

ADMINISTRATIVE PROVISIONS

22.38 PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE.

- (1) The committee shall oversee the functions of the Zoning Office; review and make recommendations to the Board of all proposed amendments to the shorelands and wetlands zoning ordinance map and text; and maintain a complete public record of all its proceedings.
- (2) The Planning, Development and Transportation Committee shall not grant variances or special exceptions to the terms of the ordinance.

22.39 ZONING OFFICE. There is hereby created the Zoning Office. The Zoning Office shall exercise the following duties and powers:

- (1) Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.

- (2) Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Provide copies of variances, special exceptions and decisions on appeals for map or text interpretations and map or text amendments within 10 days after they are granted or denied to the appropriate district office of the Department.
- (5) Have access to any structure or premises between 7:30 a.m. and 4:30 p.m. for the purpose of performing his/her duties.
- (6) Investigate and report violations of this ordinance to the appropriate county zoning committee and the district attorney or corporation counsel.

22.40 SHORELAND PERMITS.

- (1) When required. Except where another section of this ordinance specifically exempts certain types of development from this requirement (as in sections 22.34(1) and 22.34(2)), a shoreland permit shall be obtained from the zoning administrator before any new development, as defined in section 22.48(2)(f), or any change in the use of an existing building or structure, is initiated.
- (2) Application. An application for a shoreland permit shall be made to the zoning administrator upon forms furnished by the county.
 - (a) Erosion control is required as per Best Management Practices.
- (3) Expiration of permit. Shoreland permits shall expire 24 months from date of issuance.

22.41 RELAXATION OF STANDARDS FOR PERSONS WITH DISABILITIES APPLIES TO ALL SHORELAND AREAS. The Zoning Office may issue a shoreland permit to relax the standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

22.42 SPECIAL EXCEPTION PERMITS.

- (1) Application for a special exception permit. Any use listed as a special exception in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a special exception permit has been granted by the Board of Adjustment.
- (2) Standards applicable to all special exceptions. In passing upon a special exception permit, the Board of Adjustment shall evaluate the effect of the proposed use upon:
 - (a) The maintenance of safe and healthful conditions.

- (b) The prevention and control of water pollution including sedimentation.
 - (c) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage.
 - (d) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (e) The location of the site with respect to existing or future access roads.
 - (f) The need of the proposed use for a shoreland location.
 - (g) Its compatibility with uses on adjacent land.
 - (h) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
 - (i) Location factors under which:
 - 1. Domestic uses shall be generally preferred;
 - 2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - 3. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (3) Conditions attached to special exceptions. Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance. Violations of any of these conditions shall be deemed a violation of this ordinance. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Board of Adjustment may require the applicant to furnish, in addition to the information required for a shoreland permit, the following information:
- (a) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water conditions, subsurface geology and vegetative cover.
 - (b) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
 - (c) Plans of buildings, sewage disposal facilities, water supply systems and arrangement of operations.
 - (d) Specifications for areas of proposed filling, grading, lagooning or dredging.
 - (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this ordinance.
- (4) Notice, public hearing and decision. Before acting upon an application for a special exception permit, the Board of Adjustment shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the board, shall be given as a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to

the hearing. The board shall state in writing the grounds for granting or refusing a special exception permit.

- (5) Recording. When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a special exception permit shall be provided to the appropriate district office of the Department within 10 days after it is granted or denied.
- (6) Revocation. Where the conditions of a special exception permit are violated, the special exception permit shall be revoked by the Board of Adjustment.

22.43 VARIANCES.

- (1) Decision. The Board of Adjustment may grant upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:
 - (a) Literal enforcement of the provisions of the ordinance will result in unnecessary hardship on the applicant;
 - (b) The hardship is due to special conditions unique to the property; and
 - (c) Such variance is not contrary to the public interest.
- (2) No use variance. A variance shall not grant or increase any use of property which is prohibited in the zoning district.
- (3) Notice, hearing and decision. Before acting on an application for a variance, the Board of Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern, shall be given a Class 2 notice under ch. 985, Wis. Stats. Such notice shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate Department district office within 10 days of the decision.

22.44 BOARD OF ADJUSTMENT. The County Executive shall appoint a Board of Adjustment consisting of 3 members under s. 59.99, Wis. Stats. The county board shall adopt such rules for the conduct of the business of the Board of Adjustment as required by s. 59.99(3), Wis. Stats.

- (1) Powers and duties.
 - (a) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by s. 59.99, Wis. Stats.
 - (b) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

- (c) It shall hear and decide applications for special exception permits pursuant to section 22.42.
 - (d) It may grant a variance from the dimensional standards of this ordinance pursuant to section 22.43.
 - (e) In granting a special exception permit or variance, the board may not impose conditions which are more restrictive than any of the specific standards in the ordinance. Where the ordinance is silent as to the extent of restriction, the board may impose any reasonable permit conditions to effect the purpose of this ordinance.
- (2) Appeals to the board. Appeals to the Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be made within a reasonable time, as provided by the rules of the board, by filing with the officer whose decision is in question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all the papers constituting the record concerning the matter appealed.
- (3) Hearing appeals and applications for variances and special exception permits.
- (a) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under ch. 985, Wis. Stats, specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least 10 days prior to hearings on proposed shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations.
 - (b) A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within 10 days after they are granted or denied.
 - (c) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
 - (d) At the public hearing, any party may appear in person or by agent or by attorney.

22.45 FEES. As established in the annual County budget.

ORDINANCE CHANGES

22.46 CHANGES AND AMENDMENTS. The county board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this ordinance in accordance with the requirements of s. 59.97(5)(e), Wis. Stats, ch. NR 115, Wis. Adm. Code and section 22.36 of this ordinance where applicable.

- (1) Amendments to this ordinance may be made on petition of any interested party as provided in s. 59.97(5)(e), Wis. Stats.
- (2) Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be mailed to the appropriate district office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate district office of the Department at least 10 days prior to the hearing.
- (3) A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within 10 days after the decision is issued.

VIOLATIONS

22.47 ENFORCEMENT AND PENALTIES.

- (1) Any violation of the provisions of this ordinance by any person, firm, association, corporation (including building contractors) or his/her or their agent is hereby declared to be unlawful. A violator shall, upon conviction, forfeit to the county a penalty as specified under Chapter 30, Brown County Code. Each day during which such violation exists shall constitute a separate offense.
- (2) Every violation of this ordinance is a public nuisance, and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the county, the state, or any citizen thereof. Any such violator may be required to forfeit as specified under Chapter 30. Each day during which such violation exists shall constitute a separate offense.

EXPLANATION OF TERMS AND WORDS

22.48 DEFINITIONS.

- (1) For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.
- (2) The following terms or words used in this ordinance mean:

- (a) "ACCESSORY STRUCTURE OR USE" - means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.
- (b) "AGRICULTURAL PRACTICE" - has the meaning found in s. 281.16 (1)(b), Stats.

NOTE: Section 281.16 (1)(b), Stats., defines "agricultural practice" to mean "beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising."

- (c) "BOATHOUSE" - means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.
- (d) "COUNTY ZONING AGENCY" - means that committee or commission created or designated by the county board under s. 59.97(2)(a), Wis. Stats, to act in all matters pertaining to county planning and zoning.
- (e) "DEPARTMENT" - means the Department of Natural Resources.
- (f) "DEVELOPMENT" - means any man-made change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations, and the deposition or extraction of earthen materials.
- (g) "DISABLED" - means having a physical or mental impairment that substantially limits one or more major life activities.
- (h) "DRAINAGE SYSTEM" - means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (i) "FLOODPLAIN" - means the land which has been or may be hereafter covered by flood water during the regional flood as shown on the county's official floodplain zoning maps. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region, or both. The flood frequency of the regional flood is once in every 100 years. In any given year, there is a 1% chance that the regional flood may occur.

NOTE: "Floodway" is defined in s. NR 116.03 (22) to mean "the channel of a river or stream, and those portions of the floodplain adjoining the channel required to carry the regional flood discharge."

- (j) "NAVIGABLE WATERS" - has the meaning found in s. 281.31, Stats.

NOTE: Section 281.31 (2)(d), Stats., defines “navigable water” or “navigable waters” to mean “Lake Superior, Lake Michigan, all natural inland lakes within this state and all streams, ponds, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of the boundary waters, which are navigable under the laws of this state”.

Section 281.31 (2m), Stats., also provides that, notwithstanding any other provision of law or administrative rule, a shoreland zoning ordinance required under s. 59.692, Stats., “does not apply to lands adjacent to farm drainage ditches if:

1. Such lands are not adjacent to a natural navigable stream or river;
2. Those parts of the drainage ditches adjacent to these lands were nonnavigable streams before ditching; and
3. Such lands are maintained in nonstructural agricultural use.”

- (k) "ORDINARY HIGH-WATER MARK" - means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (l) "REGIONAL FLOOD" - means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.
- (m) "REASONABLE ACCOMMODATION" - means allowing a disabled person to deviate from the strict requirements of the county’s zoning ordinances if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

NOTE: Federal courts have interpreted the “reasonable accommodations” requirement in the Federal Fair Housing Act to mean that an accommodation is reasonable “if it does not cause any undue hardship or fiscal or administrative burdens on the municipality, or does not undermine the basic purpose that the zoning ordinance seeks to achieve.” *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1186 (E.D.N.Y. 1993)

- (n) "SHORELANDS" and “SHORELAND ZONE” - have the meaning found in s.59.692 (1)(b), Stats.

NOTE: Section 59.692 (1)(b), Stats., defines “shorelands” to mean “the area within the following distances from the ordinary high-water mark of navigable waters, as defined under s. 281.31 (2)(d):

1. One thousand feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the ordinary high-water mark of the lake.
2. Three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

- (o) "SHORELAND-WETLAND DISTRICT" - means the zoning district, created as a part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.
- (p) "SPECIAL EXCEPTION (CONDITIONAL USE)" - means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Adjustment or, where appropriate, the planning and zoning committee or county board.
- (q) "STRUCTURE" - means any man-made object with form, shape and utility, that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a river bed, stream bed or lake bed or upon another structure. For the purpose of this chapter, the term “structure” includes camping units, swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork including graded areas, filled areas, ditches, berms, or earthen terraces. The term “structure” does not include small objects that are easily moved by hand, such as canoes, kayaks, lawn chairs, portable grills, portable picnic tables, temporary snow fences, small temporary fences around individual plants or small groups of plants to prevent animal herbivory, bird feeders, birdhouses and birdbaths.
- (r) "UNNECESSARY HARDSHIP" - means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- (s) "VARIANCE" - means an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this ordinance.
- (t) "WETLAND" - has the meaning found in s 23.32 (1), Stats.

NOTE: Section 23.32 (1), Stats., defines “wetland” to mean “an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.”

A motion was made by Supervisor Fleck and seconded by Supervisor Van Deurzen “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Carol Kelso, County Executive Date: 10/17/2005

Approved by: _____ \s\ Darlene K. Marcelle, County Clerk Date: 10/18/2005

Approved by: _____ \s\ Patrick Moynihan, Jr., Board Chairman Date: 10/19/2005

No. 9j -- ORDINANCE REGARDING: BROWN COUNTY CODE OF ORDINANCES, CHAPTER 23, FLOODPLAINS

THE BROWN COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

CHAPTER 23

FLOODPLAINS

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FLOODPLAINS

STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

23.01 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

23.02 FINDING OF FACT. Uncontrolled development and use of the floodplains and rivers of this County would impair the public health, safety, convenience, general welfare and tax base.

23.03 STATEMENT OF PURPOSE. This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

23.04 TITLE. This ordinance constituting Chapter 23 of the Brown County Code, shall be known, cited and referred to as: The Floodplains Ordinance for Brown County, Wisconsin.

GENERAL PROVISIONS

23.05 AREAS TO BE REGULATED.

- (1) This ordinance regulates all areas that would be covered by the regional flood or base flood located in the unincorporated areas of Brown County.
- (2) Any structures intended for human habitation adjacent to a floodplain that the Zoning Administrator deems susceptible to flooding must have the lowest opening a minimum of two feet above the regional or base flood elevation. A shoreland permit will be required. If elevations do not exist, it may be required to complete a case by case flood study or to record an affidavit for unmapped floodplain onto the deed of the property.

NOTE: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

23.06 OFFICIAL MAPS & REVISIONS. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Brown County Floodplains Ordinance Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Brown County Zoning Administrator. If more than one map or revision is referenced, the most current approved information shall apply. Digital flood information and preliminary maps may be used as best available information.

Official maps: Based on the FIS

- (1) All lands as inundated by the Intermediate Regional Flood described in the U.S. Army Corps of Engineers Report Floodplain Information, East River Tributaries, March 1972; the F.E.M.A. Flood Boundary and Floodway maps, dated April 17, 1978, the F.E.M.A. Flood Insurance Rate Maps, dated February 19, 1982, November 4, 1992 and the accompanying flood study; and other data collected from the following sources: United States Army Corps of Engineers, Wisconsin State Department of Transportation, Green Bay Metropolitan Sewerage District, Natural Resource Conservation Service and the Wisconsin Department of Natural Resources, all as amended from time to time by the Brown County Board of Supervisors. In the event of any existing conflicts in the data, the more restrictive data shall apply. Best available information pertaining to floodplains may be used in all areas. The reports

and associated profiles are adopted by reference and are made a part of this ordinance, and other maps also listed in this chapter.

Approved by: The DNR and FEMA

Official maps: Based on other studies

- (2) Floodplain Study Appendix: All DNR and FEMA approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information located in the appendix of this chapter. The community shall provide the most up to date appendix to the DNR and FEMA regional offices.

23.07 ESTABLISHMENT OF DISTRICTS. The regional floodplain areas are divided into three districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

23.08 LOCATING FLOODPLAIN BOUNDARIES. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists, the map shall be amended according to s. 23.45 and 23.46. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a shoreland permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 23.40(3) and the criteria in (1) and (2) below.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

NOTE: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 23.45(6). Once approvals have been obtained from the Department and FEMA, results must be submitted

in a format that is compatible with the Brown County geographic information system (GIS).

23.09 REMOVAL OF LANDS FROM FLOODPLAIN. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 23.45 and 23.46.

NOTE: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

23.10 COMPLIANCE. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

23.11 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.12(4)(a), Stats., applies.

23.12 ABROGATION AND GREATER RESTRICTIONS.

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

23.13 INTERPRETATION. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

- 23.14 WARNING AND DISCLAIMER OF LIABILITY.** The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- 23.15 SEVERABILITY.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- 23.16 GENERAL DEVELOPMENT STANDARDS.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

23.17 HYDRAULIC AND HYDROLOGIC ANALYSES.

- (1) Except as allowed in par. (3) below, no floodplain development shall:
- (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height;
or
 - (b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 23.45 and 23.46.

NOTE: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR. Flood studies and flood analysis must be submitted in a format that is compatible with the Brown County geographic information system (GIS).

23.18 WATERCOURSE ALTERATIONS. No shoreland permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator or the Department shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

23.19 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT. Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 23.45 and 23.46.

23.20 PUBLIC OR PRIVATE CAMPGROUNDS. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health and Family Services.
- (2) A shoreland permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72 hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in sub. (4) to remain in compliance with all applicable regulations, including those of the State Department of Health and Family Services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days, must meet the applicable requirements in either s. 23.22 through s. 23.28 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

23.21 RELAXATION OF STANDARDS FOR PERSONS WITH DISABILITIES APPLIES TO ALL DISTRICTS. The Zoning Office may issue a shoreland permit to relax the standards of this ordinance in order to provide reasonable accommodation of persons with disabilities as required by provisions of Federal and State law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

FLOODWAY DISTRICT (FW)

23.22 APPLICABILITY. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 23.32.

23.23 PERMITTED USES. The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance;
- they meet the standards in s. 23.24 and 23.25; and
- all permits or certificates have been issued according to s. 23.37:

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 23.24(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 23.34 and 23.25.
- (5) Extraction of sand, gravel or other materials that comply with s. 23.24(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 23.24(3).

23.24 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.

- (1) General: General requirements of:
 - (a) Any development in floodway areas shall comply with s. 23.17 through 23.21 and have a low flood damage potential.
 - (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 23.17:
 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
 - (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.
- (2) Structures: Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (a) The structures are not designed for human habitation and do not have a high flood damage potential;
 - (b) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;

- (c) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - (d) The structures have all service facilities at or above the flood protection elevation.
- (3) Public: Public utilities, streets and bridges may be allowed by permit, if:
- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (b) Construction meets the development standards of s. 23.17.
- (4) Fills: Fills or deposition of materials may be allowed by permit, if:
- (a) The requirements of s. 23.17 are met;
 - (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
 - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - (d) The fill is not classified as a solid or hazardous waste material.

23.25 PROHIBITED USES. All uses not listed as permitted uses in s. 23.23 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

FLOODFRINGE DISTRICT (FF)

23.26 APPLICABILITY. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 23.32.

23.27 PERMITTED USES. Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 23.28 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 23.37 have been issued.

23.28 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS.

- (1) Provisions: All of the provisions of s. 23.17 shall apply. In addition, the following requirements shall apply according to the use requested.
- (2) Residential uses: Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;
 - (a) The elevation of the lowest opening of the foundation, shall be at or above the flood protection elevation (which is a point two feet above the regional or base flood elevation). The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical and the Board of Adjustment grants a variance.
 - (b) All new construction and substantial improvements of structures with basements within A-zones and other identified floodplains shall be designed so that any basement area, together with attendant utilities and sanitary facilities below the floodproofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls (including sealed structural glass block windows) shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effects of buoyancy resulting from flooding which is two feet above the 100-year frequency flood, and shall be designed so that minimal structural damage will occur if this design is exceeded. The finished floor elevation of a basement or crawlway shall be no more than 5 feet below the regional flood elevation for residential and commercial structures. Under this provision, the bottom of the lowest basement openings, such as doors and non-sealed windows, must be placed at least two feet above the 100-year regional flood elevation.
 - (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
 - (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.
- (e) The area surrounding the entire foundation must be filled to at least one foot above the 100-year regional flood line for a distance of 15 feet beyond the limits of the structure.
 - (f) Floodproofed basements may not be constructed within the floodway.
 - (g) Basements constructed in accordance with this subsection shall not be used for sleeping purposes.
 - (h) A registered professional engineer or architect shall certify that the standards herein provided are incorporated in the building plans and specifications. This certification shall include the specific elevation (in relation to mean sea level) to which the structure is floodproofed. Before occupancy of the structure the registered professional engineer or architect must site verify all aspects of the project and sign a certificate of compliance that must be submitted to the Brown County Zoning Office within 60 days of completion of the project.
 - (i) The professional architect or engineer shall make or require inspections of the basement construction work to ascertain compliance with the above provisions.
 - (j) A registered land surveyor or engineer must set a benchmark on the property to assure proper elevations except where a municipality has a benchmark established. This must be done by completing the benchmark certificate available at the Brown County Zoning Office. Once completed, the original signed benchmark certificate from the surveyor or engineer must be submitted to the Brown County Zoning Office.
- (3) Accessory structures or uses: An accessory structure or use not connected to a principal structure shall be constructed with its lowest floor no lower than the regional flood elevation, subject to flood velocities of no more than two feet per second, and shall meet all the provisions of ss. 23.24(2)(a), (b), (c), (d), and sub. (6) below.
 - (4) Commercial uses: Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 23.28(2). Subject to the requirements of sub. (6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
 - (5) Manufacturing and industrial uses: Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 23.43. Subject to the requirements of sub. (6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- (6) Storage of materials: Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 23.43. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (7) Public utilities, streets and bridges: All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 23.43 to the flood protection elevation;
 - (b) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (8) Sewage systems: All on-site sewage disposal systems shall be floodproofed, pursuant to s. 23.43, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (9) Wells: All wells shall be floodproofed, pursuant to s. 23.43, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (10) Solid waste disposal sites: Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (11) Deposition of materials: Any deposited material must meet all the provisions of this ordinance.
- (12) Manufactured homes:
 - (a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse or move laterally during a flood.
 - (c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 23.28(2).
- (13) Mobile recreational vehicles: All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 23.28(12)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is

- attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
- (14) Relaxation of standards for persons with disabilities: See s. 23.21.

GENERAL FLOODPLAIN DISTRICT (GFP)

23.29 APPLICABILITY. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

23.30 PERMITTED USES. Pursuant to s. 23.32, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 23.23) and floodfringe areas (s. 23.27) are allowed within the general floodplain district, according to the standards of s. 23.31, provided that all permits or certificates required under s. 23.37 have been issued.

23.31 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT. S. 23.22 through 23.25 applies to floodway areas, s. 23.26 through 23.28 applies to floodfringe areas. The rest of this ordinance applies to either district.

23.32 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS. Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
 - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

- (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 23.37(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

NONCONFORMING USES

23.33 GENERAL.

- (1) Applicability: If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (2) Requirements: The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure’s total current value those modifications represent;

- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 23.28(2). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) Destroyed or substantially damaged structures:
 - 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value.
 - 2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 23.24(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 23.43 are used.

23.34 FLOODWAY AREAS.

- (1) Structures: No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;
 - (b) Meets the requirements of s. 23.33;
 - (c) Will not increase the obstruction to flood flows or regional flood height; and
 - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 23.43, by means other than the use of fill, to the flood protection elevation.
- (2) Sewage systems: No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage

- disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) Wells: No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

23.35 FLOODFRINGE AREAS.

- (1) Structures: No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 23.28, except where s. 23.35(2) is applicable.
- (2) Variance: Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment, using the procedures established in s. 23.40, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet;
 - (e) Flood velocities will not exceed two feet per second; and
 - (f) The structure will not be used for storage of materials as described in s. 23.28(6).
- (3) Alternative: If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- (a) Meets all other regulations and will be granted by permit or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.
- (4) Sewage systems: All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

- (5) Wells: All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

ADMINISTRATIVE PROVISIONS

23.36 ADMINISTRATION. Where a zoning administrator, planning agency or a Board of Adjustment has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

23.37 ZONING ADMINISTRATOR.

- (1) Authority: The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
 - (c) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - 4. All substantial damage assessment reports for floodplain structures.
 - (d) Submit copies of the following items to the Department Regional office:
 - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - 2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

- (g) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

23.38 SHORELAND PERMIT. A shoreland permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) General information:

- (a) Name and address of the applicant, property owner and contractor; and
- (b) Legal description, proposed use, and whether it is new construction or a modification;

(2) Site development plan: A site plan drawn to scale on paper no larger than 11" by 17" (unless permission to submit a larger plan is granted by the Brown County Zoning Office) shall be submitted with the permit application form and shall contain:

- (a) Location, dimensions, area and elevation of the lot;
- (b) Location of the ordinary high-water mark of any abutting navigable waterways;
- (c) Location of any structures with distances measured from the lot lines and street center lines;
- (d) Location of any existing or proposed on-site sewage systems or private water supply systems;
- (e) Location and elevation of existing or future access roads;
- (f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- (g) The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- (h) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of s. 23.22 through 23.28 are met; and
- (i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 23.17. This may include any of the information noted in s. 23.24(1).

(3) Data requirements to analyze developments:

- (a) The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs. The applicant shall provide:

1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 2. A map showing location and details of vehicular access to lands outside the floodplain;
 3. A surface drainage plan showing how flood damage will be minimized; and
 4. The information must be submitted in a format compatible with the Brown County geographic information system (GIS).
- (4) Expiration: All permits issued under the authority of this ordinance shall expire 2 years after issuance. There is no renewal option at the end of the two years. If the project takes longer than two years another permit would need to be obtained.
- (5) Certificate of compliance: No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (a) The certificate of compliance shall certify that the building or premises and the proposed use conform to the provisions of this ordinance;
 - (b) Application for such certificate shall be concurrent with the application for a permit;
 - (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - (d) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of s. 23.43.
 - (e) The certificate of compliance must be completed on the form supplied by the Brown County Zoning Office.
- (6) Other permits: The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

23.39 PLANNING, DEVELOPMENT AND TRANSPORTATION COMMITTEE.

- (1) The Planning, Development and Transportation Committee shall:
- (a) oversee the functions of the office of the zoning administrator; and
 - (b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(2) The Planning, Development and Transportation Committee shall not:

- (a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment; or
- (b) amend the text or zoning maps in place of official action by the governing body.

23.40 BOARD OF ADJUSTMENT. The Board of Adjustment, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(1) Powers and duties: The Board of Adjustment shall:

- (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) Appeals to the Board:

- (a) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.
- (b) Notice and hearing for appeals including variances:

1. Notice - The Board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent or attorney. The Board shall:

- a. Resolve boundary disputes according to s. 23.40(3).

- b. Decide variance applications according to s. 23.40(4).
- c. Decide appeals of permit denials according to s. 23.42.

(c) Decision: The final decision regarding the appeal or variance application shall:

- 1. Be made within a reasonable time;
- 2. Be sent to the Department Regional office within 10 days of the decision;
- 3. Be a written determination signed by the chairman or secretary of the Board;
- 4. State the specific facts which are the basis for the Board's decision;
- 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
- 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) Boundary disputes: The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 23.45 and 23.46.

(4) Variance:

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - 3. The variance is not contrary to the public interest; and
 - 4. The variance is consistent with the purpose of this ordinance in s. 23.03.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - 1. The variance may not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.
2. Be granted for a hardship based solely on an economic gain or loss.
3. Be granted for a hardship which is self-created.
4. Damage the rights or property values of other persons in the area.
5. Allow actions without the amendments to this ordinance or map(s) required in s. 23.46.
6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

23.41 FEES. As established in the annual County budget.

23.42 TO REVIEW APPEALS OF PERMIT DENIALS.

(1) The Board of Adjustment shall review all data related to the appeal. This may include:

- (a) Permit application data listed in s. 23.37(2).
- (b) Floodway/floodfringe determination data in s. 23.32.
- (c) Data listed in s. 23.24(1)(b)2. where the applicant has not submitted this information to the zoning administrator.
- (d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

- (a) Follow the procedures of s. 23.40;
- (b) Consider zoning agency recommendations; and
- (c) Either uphold the denial or grant the appeal.

- (3) For appeals concerning increases in regional flood elevation the Board shall:
 - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

23.43 FLOODPROOFING.

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and
 - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
 - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (b) Adding mass or weight to prevent flotation.
 - (c) Placing essential utilities above the flood protection elevation.
 - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

23.44 PUBLIC INFORMATION.

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

AMENDMENTS

23.45 GENERAL. The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

NOTE: Consult the FEMA web site - www.fema.gov - for a current map change fee schedule.

23.46 PROCEDURES. Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 23.32 and 23.37(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or Board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 23.08.)

VIOLATIONS

23.47 ENFORCEMENT AND PENALTIES. Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the county a penalty as specified under Chapter 30, Brown County Code. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

EXPLANATION OF TERMS AND WORDS

23.48 DEFINITIONS. Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and not discretionary.

- (1) **"A ZONES"** - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) **"ACCESSORY STRUCTURE OR USE"** - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (3) **"BASE FLOOD"** - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (4) **"BASEMENT"** - Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.
- (5) **"BUILDING"** - See STRUCTURE.
- (6) **"BULKHEAD LINE"** - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (7) **"CAMPGROUND"** - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (8) **"CAMPING UNIT"** - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.
- (9) **"CERTIFICATE OF COMPLIANCE"** - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

- (10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities.
- (12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- (14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- (15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- (17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- (18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- (20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
- ✓ The overflow or rise of inland waters.
 - ✓ The rapid accumulation or runoff of surface waters from any source.
 - ✓ The inundation caused by waves or currents of water exceeding anticipated

cyclical levels along the shore of Lake Michigan or Lake Superior.

- ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

- (22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

- (33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (35) "HABITABLE BUILDINGS" - Any building or portion thereof used or designed for human habitation.
- (36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (38) "HISTORIC STRUCTURE" - Any structure that is:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
 - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
 - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

- (41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
- (43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (44) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- (45) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (46) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (47) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (48) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (49) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 23.06, which has been approved by the Department and FEMA.
- (50) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- (51) "ORDINARY HIGH-WATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (52) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

- (53) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (54) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (55) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (56) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (57) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (58) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (59) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- (60) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (61) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

- (62) "VARIANCE" - An authorization by the Board of Adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (63) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (64) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- (65) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (66) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

A motion was made by Supervisor Zabel and seconded by Supervisor Scray "**to adopt**". Voice vote taken. Supervisor Krueger voted nay. Supervisor Evans abstained. Motion carried.

Approved by: _____	\s\ Carol Kelso, County Executive	Date: 10/17/2005
Approved by: _____	\s\ Darlene K. Marcelle, County Clerk	Date: 10/18/2005
Approved by: _____	\s\ Patrick Moynihan, Jr., Board Chairman	Date: 10/19/2005

No. 9k -- RESOLUTION REGARDING: LETTER OF COMMENDATION TO JIM NICKEL, DIRECTOR, PUBLIC SAFETY COMMUNICATIONS

**RESOLUTION HONORING JIM NICKEL FOR HIS SERVICE
TO BROWN COUNTY AND ITS' RESIDENTS**

WHEREAS, JIM NICKEL, accepted employment as Brown County's Public Safety Communications Director on January 5, 2004 when the department was in shambles and on the verge of disbanding, and

WHEREAS, JIM NICKEL, provided the leadership and professional expertise necessary to restore the 911 Communications Center to a competent well-run department, and

WHEREAS, JIM NICKEL, has restored confidence to Brown County and its' residents that its 911 Communications Center is reliable and provides a superior measure of safety necessary to the well-being of Brown County, and

WHEREAS, JIM NICKEL, saved the County's multi-million dollar investment in public safety computer systems by negotiating free system upgrades and training from the vendors and then actively managing the implementation, and

WHEREAS, JIM NICKEL, improved relations between the Communications Center and the forty-two police and fire/EMS agencies providing positive changes in dispatching their fleets, and

WHEREAS, JIM NICKEL, instituted new training programs and internal procedures in the 911 Center that has improved operational quality, and

WHEREAS, JIM NICKEL, saved the County consultant fees by generating an RFP for the new E911 telephone switch which resulted in bids well below project projections from three of the four major industry vendors providing considerable savings to Brown County taxpayers.

WHEREAS, JIM NICKEL, continues to provide superior leadership and expertise on a day-to-day, month-to-month and year-to-year basis to Brown County and its' residents.

THEREFORE BE IT RESOLVED that Brown County and its' residents recognize and thank JIM NICKEL for his dedicated and competent service to Brown County and the positive measure of safety he has provided our citizens.

Patrick Moynihan, Jr.
Chair

Dan Haefs
Vice Chair

William M. Clancy
Joseph Van Deurzen
Mary Scray
Harold C. Kaye
Bernie Erickson
Norbert Dantine, Jr.
Mike Fleck
Thomas Lund
Jack Krueger
Fred Graves, Jr.

Patrick M. Evans
Joe Backmann
Pat J. Collins
Thomas J. Hinz
Michael Frohna
Guy Zima
Chris Zabel
Kathy Johnson
Anthony Theisen
John Vander Leest

Steve Fewell

Brown County Members not present at September 21, 2005 meeting. Signatures obtained after meeting.

Craig Beyl

Earl Van Den Heuvel

In Witness Whereof, I have hereunto set my hand and caused the Seal of the County of Brown to be affixed. Done at the City of Green Bay, this 21st day of September in the year 2005.

\s\ Darlene K. Marcelle
Clerk of Brown County

\s\ Carol Kelso
County Executive

A motion was made by Supervisor Kaye and seconded by Supervisor Hinz “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Carol Kelso, County Executive

Date: 10/17/2005

*** *PRESENTATION TO JIM NICKEL AFTER THIS VOTE * ***

Supervisor Zima explained the resolution before us this evening, which is a letter of commendation to Brown County Public Safety Director, Jim Nickel. Supervisor Zima said we all realize there are many good employees in Brown County, however, his committee feels Mr. Nickel has gone beyond the call of duty, adding Mr. Nickel stepped in when our Communication Center was really in trouble. Mr. Nickel and his staff has provided outstanding leadership by providing the Committee with detailed reports of what is happening in the 9-1-1 Department. It is for the many reasons Mr. Zima explained to the Board and Public that his Committee is presenting this resolution honoring Mr. Nickel.

Chairman Moynihan asked for a vote on the resolution. Voice vote taken. Motion carried unanimously with no abstentions.

At this time, Public Safety Committee Chairperson Kaye read the resolution and presented the commendation to Mr. Jim Nickel.

No. 91 -- RESOLUTION REGARDING: CLERK OF COURTS
RECLASSIFICATION OF THREE (3) CLERK TYPIST II POSITIONS
AND TITLE CHANGE

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, a study of the Clerk Typist II positions in the front counter area of the Clerk of Courts Department was completed, and it was determined that the Clerk Typist II's are performing duties beyond the Clerk Typist II position description; and

WHEREAS, requests for reclassification were submitted October 30, 2000, and November 7, 2000, and the basis for three of the four reclassification requests evolved from additional job duties, evaluation of the complexity of responsibilities, and required knowledge, skill and ability in providing customer service to the Courts and to the public; and

WHEREAS, the Human Resources Department has conducted a thorough study of the change in job duties and recommends the three (3) Clerk typist II positions in the Clerk of Courts Department be re-titled and reclassified to Customer Service Clerk (Clerk of Courts) positions (study attached); and

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that the three (3) Clerk Typist II positions who perform their duties at the front counter in the Clerk of Courts Department be re-titled as Customer Service Clerk positions in the Department table of organization retroactive to the original dates of the reclassification requests which are dated October 30, 2000.

BE IT FURTHER RESOLVED that the positions will be placed in Schedule A, Classification F of the Courthouse Employees Agreement.

BE IT FURTHER RESOLVED that the funds to cover the costs resulting from the adoption of this resolution shall be made available from funds budgeted for this purpose.

Respectfully submitted,
PUBLIC SAFETY COMMITTEE
EXECUTIVE COMMITTEE

Fiscal Note:

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>(2003 rate)</u> <u>2003-2005</u>
Clerk/Typist II Schedule A, Class. B	11.9529	12.3615	12.7323	13.1143	13.1143
Customer Service Clerk Schedule A, Class. F	12.5156	12.9411	13.3293	13.7292	13.7292
Hourly Wage Difference	.5627	.5796	.5970	.6149	
Total Fiscal Impact	\$16,351				

ATTACHMENT TO RESOLUTION

HUMAN RESOURCES MEMO

TO: Richard Gschwend
Human Resources Director
DATE: July 14, 2005
FROM: Shannon Maas
Human Resources Analyst
Reviewed by: Kris Carter-Olson, Principal Analyst
RE: **Clerk Typist II Reclass Request**

I. Position: Clerk Typist II (file management)
Incumbent: Jamie Williams, Christa Reimer, Colleen Neerdaels, and Jolene Krings
Salary: \$13.11/hour (2003 rates)
Department: Clerk of Courts

II. Request

The Human Resources Department received a request from the Clerk Typist II's in the Clerk of Courts to review and reclassify the position. The original request was submitted by Williams, Reimer and Neerdaels, and former incumbents Kathy Luedtke and Lisa (Gwidt) Luedtke. Kathy Luedtke and Lisa Luedtke have since left the position.

The three key factors that are examined when conducting a reclassification study are:

1. Are there significant job duty changes,
2. If yes, do those significant job duty changes affect the knowledge, skills and abilities necessary to perform the job, and
3. If yes, do the new requirements for knowledge, skills and abilities warrant the position to be reclassified to another position?

III. Research Completed.

- a. Discussion with incumbents
- b. Discussion with Paul Janquart, Lisa Wilson and Curt Nysted
- c. Review of job description
- d. Review of job duties performed by other Clerk Typist II's
- e. Review of other clerical county positions

IV. Findings from Research

The Clerk of Courts office currently has four individuals assigned to handle the front counter duties of the department. Currently, these positions are classified as Clerk Typist II's. Three out of the four people are seated at the front counter 100% of the time. The other Clerk Typist II sits at the front counter when filling in on breaks or for other extended absences of less than 90 days.

The Clerk/Typist II position description states the position perform varied and increasingly responsible clerical and typist work calling for independent judgment, initiative and specialized knowledge in carrying out established procedures or applying laws or regulations.

The position is also responsible for conducting transactions with the public with matters requiring determining which laws, rules, and/or departmental policies and procedures are applicable to each transaction. Employees in this class are expected to perform their normal work assignments in accordance with established work procedures with a minimum amount of instruction or direction. Duties outlined on the job description include:

- Reception work – Performs receptionist and/or counter duties, answers questions regarding departmental regulations
- Performs filing and searching
- Analyzes and interprets information contained in a variety of documents, forms, reports, etc. for processing
- Obtains information from the public for the completion of forms, documents, records, etc.
- Refers inquirers to proper department or official
- Performs data entry of various courts documents; scheduling, docketing

- Types correspondence and corrects/updates vital statistic data from written or printed material
- Receives payments, issues receipts
- Makes detailed arithmetic calculations when processing of information

A reclassification was submitted because the parties felt that there was significant job duty changes assigned to their position outside of their Clerk Typist II job duties. These additional duties were added starting in 1998 until 2000. Duties added previously were done by either Court Coordinators or Deputy Clerks when not working in the courtroom. Duties were transferred to this position to help with the workload of the Court Coordinators or Deputy Clerks.

Further, Paul Janquart, Clerk of Courts, Lisa Wilson, Chief Deputy Clerk of Courts, and Curt Nysted, Financial Operations Manager, feel the position functions at a higher level than other Clerk/Typist II positions because of the complexity of the duties and required knowledge of the legal system. They also suspect that the position was incorrectly classified at the time the Courthouse was remodeled and the Clerk of Courts had a separate room with the front counter and the counter needed to be “manned”. Clerk/Typist II’s were moved to that area to perform counter duties.

The following outlines the job duty changes identified.

Small Claims – Previous duties of the position were to schedule hearing and return dates, assign case numbers and court dates into the computer, enter parties and attorneys names into the computer, date stamp documents and make copies, and assemble small claim and garnishment packets. Newly added duties include: disposing of cases and hearings heard, adding court events into the court record, processing oral and written decisions, blocking out times in the Court Commissioner’s calendar on non court dates, and putting files in numerical order.

Disposing of cases heard entails entering into the computer that cases were heard.

Adding court events into the record is entering any documentation of court related activities such as future court dates, judgments, etc.

After a hearing the Court Commissioner will either make an oral or written decision. To process an oral decision this position must make copies of the decision and assign the case to a judge. Judges rotate cases they hear so this position assigns the case to the next judge in line. After being assigned to a judge, this position gives the file to the assigned court.

To process a written decision, this position mails the written decision to the parties involved and fills out a demand for trial form taking the information directly from the judge’s written decision. If needed, this position would then assign a judge to the case.

Putting files in numerical order is being done to assist the Clerk Typist II’s in file management.

These duties require a high level of accuracy and competency as well as knowledge of small claims summons and complaints and processing. Errors can result in cases being dismissed or delays in court hearings which is frustrating for the court and for the public.

Family and Civil Files – Previous duties of the position were to assign case numbers, court dates and party's names into the computer. Newly added duties include: disposing of hearings and cases heard, adding court events (future court date, orders, short narratives of explanation) into the court record, putting files in numerical order, adding additional party's names and attorneys into the computer, date stamping the file and making copies.

These duties require a high level of accuracy and competency. Assigning a wrong case type can result in a case not being scheduled timely. It can also result in a case that should be confidential being placed in a non-confidential file.

There are many other types of family filings which initiate a new case in Brown County. These documents must be carefully examined by the clerk to determine what type of filing it is and whether or not the party filing the document is requesting court action.

This is a complex area of laws and the decision the clerk makes will directly affect the court action the document receives. The level of accuracy and competency exceeds the skills and abilities of a Clerk/Typist II.

Receipting – The position always has receive payments and issued receipts through and mail and the counter for sheriff sale deposits, copy fees, transcripts, executions, certificates of judgments and other miscellaneous payments. Again, this task has always been done, but now this position opens mail for the entire office so the volume of receipting has increased.

When taking in a payment this position must determine what type of filing the party is pursuing. These are fourteen different case types and many different payment codes. The longer a person is in the position the more they become familiar as to what code is used for what filing. If there is a filing that the person doesn't know what code to enter they can refer to the computer for help or their manual. If they still do not know the type of filing to enter, they would ask a co-worker or the Chief Deputy.

Before when receipting for just small claims there was approximately only 30 different types of claims. Now with processing family and civil files there are approximately 150 types of claims. Learning what code to enter for what type of claim may take a new person in the position a longer time to learn the job, but there are guidelines to follow on this task.

Mail – The position used to only receive mail for their area. Now the position opens mail for the entire office, which includes entering the information into the computer and routing it to the appropriate area.

When receiving filings through the mail this position must enter into the computer the type of filing. There are approximately 40 types of filings, but generally there are three main types of filings (small claims, family and civil).

These duties require a high level of accuracy and competency. Assigning a wrong case type can result in a case not being scheduled timely. It can also result in a case that should be confidential being placed in a non-confidential file. Although the responsibility has expanded, I believe the level of accuracy and competency exceeds the skill and ability levels of a Clerk/Typist II.

Bill Notices and Tracking – This is an entirely newly added function. This position prepares a form letter to the party letting them know their payment for court fees is due. The only information that may need to be added to this letter is the parties' names, address, and amount due.

If a party cannot afford to pay their court fees they may fill out a Waiver of Filing to request a reduction in their payment of court fees. The Court Commission determines if the requester is indigent and if it has to be paid. After the Commissioner reviews the party's request, this position would prepare a form letter informing the party of the Commissioner's decision. If it is ordered that it has to be paid, the Commissioner may indicate the period of time for repayment. If this isn't determined, the Clerk then sets up a repayment plan.

When the payment arrives the position receipts the payment. If the payment does not arrive within 30 days they follow up with another form letter telling them that the payment must be submitted within two weeks or will be handed over to Corporation Counsel. If payment is not received within the two weeks, the file is sent to Corporation Counsel.

These duties are within the Clerk/Typist II classification. The letters prepared are form letters. When setting up a payment plan as long as the party agrees to make some sort of payment each month that is allowed.

The added duties require no additional knowledge, skills or abilities to perform and are within the Clerk Typist II specifications.

Docketing for Small Claims – This also is an entirely newly added function. If one party take another party to court, and it is determined that the party owes money to the individual who brought them to court, that party can file a judgment against the other party. When receiving this form, this position verifies that all information on the form is accurate. They check that the party's name, address and amount due are accurate. If the information is accurate they date stamp the document and route the form on. If that information is not accurate, this position then has to call the attorney or individual to tell them the information.

A high level of accuracy and knowledge of small claims processing is required, a level of skill and ability beyond that of the Clerk/Typist II classification. Failure to timely docket judgments (defined as within one hour of filing of the judgment) could result in the Clerk of Courts being

liable in treble damages to the party injured. Docketing a judgment for the incorrect amount or against the wrong person could present a liability for the Clerk of Courts.

Small Claim Notice of Entry Judgment – This is a newly added function. This process involves entering judgments into the computer, printing a Notice of Entry of Judgment, date stamping them, making copies, putting a mailing date on the form and a judgment date on the financial statement, mailing the Notice to all parties in the case. In order to prepare the Notice of Judgment, the Clerk must review and correctly interpret the minutes and verify the information on the judgment.

Minutes can be complicated and requires the ability to read and understand complex written documentation.

Small Claim mediation – This is also a new duty. This position schedules all mediation cases, disposes of the case after it is heard, and enters any notes into the computer off the minute sheet.

Mediation, being one type of a small claim filing, would follow a similar process as other small claim filings.

These duties require a high level of accuracy and competency as well as knowledge of small claims summons and complaints and processing. These additional duties require knowledge, skill and ability beyond that of the Clerk/Typist II classification. Errors can result in cases being dismissed or delays in court hearings which is frustrating for the court and for the public.

Miscellaneous – Duties that have always been done by this position include: checking files in and out from the file management area, locking and unlocking the front office door, signing in citizens that want to come in the office to research information, and assisting with training new employees in their area. A few years ago the Clerk of Courts asked this position to develop a manual which would be used as a reference for new hires and as a quick reference for employees to look up information on how to file cases and what code to use to enter cases into the system. This position updates this manual as necessary. This position also is required to be a notary public and certify certain documents.

These duties are within the Clerk/Typist II classification. Another newly added miscellaneous duty includes submitting vital statistic information. Submitting vital statistic information for things like name and sex changes for a birth certificate requires this position to enter the information in the computer and submit it to Madison. This is a highly involved procedure. Court ordered name change could easily be confused with court ordered correction and the application of incorrect fee assessment and incorrectly publishing a name change when it isn't required.

Customer Service – The Clerk Typist II's have always worked at the front counter and have answered questions over the phone and in person about the legal process and have directed citizens. When the position assists the public, typically the requests are routine in nature but at

times requests may require additional research. The research involves determining which of the laws, rules, or regulations, is applicable to a particular situation.

In responding to requests from the public, specific knowledge is needed to determine where to look for the information or where to refer the caller (i.e., code book, other City, County or State departments, Statutes, etc.). In most instances, either copies of the specific code, law or procedure are provided to the public or routinely explained. Non-routine questions or interpretations may be referred to other staff or, in some instances the Clerk must conduct research into laws, rules or regulations to provide the appropriate response.

This position now processes more paperwork and the processing is more complicated. The position also has to do docketing and entering of court events. This position may gain or be required to gain a greater knowledge of the legal process; however, this knowledge can all be gained on the job.

It should be noted that this position works with a variety of different documents throughout the day. There are different processes and procedures to follow on how each document is processed. The position over time becomes familiar with how the documents are processed. They must learn for instance which documents get signatures, which documents get routed to different areas (ex. Child Support, Register of Deeds office), which documents need to be sent to a Commissioner immediately, which documents to put in confidential envelopes so the public cannot view, which documents get date stamped, etc.

This position processes a lot of paperwork throughout the day. There are many steps to learn in this job, and each step and process is complex requiring a high degree of accuracy and a broad knowledge base. The level of accuracy and competency exceeds the skills and abilities of a Clerk/Typist II.

Comparisons of Other Positions in the County

Account Clerk II

An Account Clerk II regularly processes work of routine difficulty calling for the exercise of judgment in the recording and processing of financial and related data. These duties include verifying, tabulating and recording financial material on a routine basis. An Account Clerk II reconciles various statements, posts data, prepares reports and maintains related records. An Account Clerk II has an increased level of responsibility as it relates to the processing of reports, billings and accounts the position is responsible for preparing and maintaining. The Account Clerk II may perform audits of various accounts and has responsibility to prepare the more complex reports.

Account Clerk II's perform more difficult responsibilities in processing financial and related data than the Account Clerk I. The Account Clerk II regularly performs work related to financial data.

Account Clerk I

An Account Clerk I performs work of routine difficulty calling for some exercise of judgment in the recording and processing of financial and related data. This position is responsible for bookkeeping duties of a routine nature involving maintaining records and processing documents related to financial transactions. This work is performed within specific guidelines. An Account Clerk I may be required to complete reconciliations, will apply monies to accounts, make adjusting entries, track the status of accounts, balance cash drawers and process and track fees and other accounts. An Account Clerk I prepares deposits, issues refunds, tracks fees, initiates process for nonpayment of fees, prepares and submits reports and types schedules. These positions may set up payment plans within established guidelines. An Account Clerk I is responsible to complete these assignments independently, gathering needed information from various sources.

Secretary III

The Secretary III position performs comprehensive and responsible secretarial duties for a department head and subordinate staff; specifically, transcribing dictation, typing comprehensive materials, compiling data and preparing reports. This position would also schedule appointments, receive and direct telephone callers and visitors to the office. This classification may also be required to draft correspondence for the department head and compile financial data.

Clerk Typist III

A Clerk Typist III performs work of considerable difficulty calling for the exercise of independent judgment in making decisions. The work performed is often difficult in nature calling for initiative and specialized knowledge. A Clerk Typist III often times develops the routine procedures necessary to carry work to completion. A Clerk Typist III performs difficult and varied clerical work. A Clerk Typist III may be called upon to act as a lead worker, including instructing and training employees. Types of duties performed include: typing varied difficult material of a complex nature; independently compiles data and prepares various reports; establishes and maintains department files and cross references categories; may schedule and assign tasks to subordinate employees and review their work for accuracy and completeness; responds to complaints which may require research and follow through; is responsible for the performance of a variety of follow up activities and makes and verifies moderately difficult entries in accounting, bookkeeping and related records; maintains receipt books and makes deposits; may requisition office supplies; may be authorized to act for their manager in certain activities.

Although some overlap exists between the Clerk/Typist II and Clerk/Typist III positions, the Clerk Typist III performs difficult and increasing responsible clerical work calling for independent judgment, initiative and specialized knowledge and understanding of laws, regulations and departmental policies and procedures.

The knowledge skills, and abilities of the Clerk/Typist III are similar to what is required in the Clerk/Typist II (front counter) positions in the Clerk of Courts office. Further, the front counter Clerks are required to utilize independent judgment in interpreting complex documents and applying the appropriate laws and internal policies and procedures in the processing of those documents.

Child Support Clerk

This position is responsible for review and monitor child support cases under general supervision. This position prepares routine notices, analyzes and interprets information and assists in the enforcement/establishment of court orders. This involves initiating the appropriate documents to obtain a court order. Once there is an order, this position may have to contact employers and/or parties to have the order enforced and the information is entered into the State KIDS system. This position drafts routine documents, schedules cases for court, monitors cases and updates information in the computer. This position also conducts research to assist in the determination of whether or not there should be a Health Insurance a court order (i.e. uses independent judgment in this determination). This position responds to telephone and in person inquires as related to the Child Support agency and child support matters. Strong organizational skills are required as well as the ability to make independent decisions and meet deadlines. Knowledge of legal terminology and the ability to interpret complex reports is also required.

The knowledge skills and abilities required for a Child Support Clerk are similar to what is required in the Clerk/Typist II (front counter) positions in the Clerk of Courts.

Warrants/Temporary Restraining Orders Clerk

This position performs difficult and increasingly responsible clerical and typist work calling for independent judgment, initiative and specialized knowledge and understanding of laws, regulations and/or departmental policies and procedures. The position is responsible for conducting transactions with the public regarding matters requiring interpretation and analysis of laws, rules, and/or departmental policies and procedures.

The position receives calls and answers questions regarding departmental regulations and policies, or refers inquiries to the proper official and/or department. The position receives processes, maintains and validates all warrants, and enters and maintains temporary restraining orders. The position searches for information from a variety of sources. The position analyzes, interprets and processes information of a complex nature contained in a variety of documents, forms, etc. pertaining to the department. This position also receives payment, issues receipts, maintains receipt books, makes necessary deposits and accounts for monies handled. The position obtains information from the public for the completion of forms, documents, records, etc.

There are similarities between this position's responsibilities and that of the counter clerks in that both need to have a specialized knowledge and understanding of laws, regulations and/or departmental policies and procedures, interactions with the public requiring interpretation and analysis of laws, rules, and/or department policies and procedures, both analyzes, interprets and processes information of a complex nature contained in a variety of documents, forms, etc. pertaining to the department. Both positions receive payments, issues receipts and accounts for monies handled.

Both positions have similar required knowledge, skills and abilities beyond that of a Clerk/Typist II classification.

Property Description Specialist

The main focus of this position is to scan documents into an optical imaging system and tract index volumes. This position also acts as the contact person with software vendors to resolve software problems. The position shares customer service responsibilities with other staff in the Tract Index area.

The position may process less complex real estate descriptions for posting, determining if the description meets the defined criteria for posting.

Clerk Typist II

A Clerk Typist II performs work of moderate difficulty calling for the exercise of judgment in completing a variety of assigned general clerical and typing tasks. The work performed is routine in nature and procedures and methods are in place to achieve the work assignments. An employee in this classification would be expected to perform their normal work assignments in accordance with established work procedures with a minimum amount of instruction or direction. Types of duties performed include: Explains departmental procedures; types correspondence and other documents which frequently involve some judgment regarding the information included or format used; gathers information from various resources and combines data for financial, statistical and legal reports; enters data into or searches for information on computer; maintains files and sorts files and information; makes and verifies moderately difficult entries in accounting, bookkeeping and related records; maintains receipt books and makes deposits.

Based on this review it is determined that the position functions at a higher level than other Clerk/Typist II positions because of the complexity of the duties and required knowledge of the legal system, laws, rules and regulations. Errors in their work have a significant impact on the operation of the legal system, the courts, and processing of cases and information.

V. Recommendation.

This study revealed the Clerk Typist II (front counter) positions are performing additional duties that require additional knowledge, skills and abilities beyond their classification. Their responsibilities are more aligned with those of a Clerk/Typist III, Child Support Clerk, and Warrant/Temporary Restraining Orders Clerk which are in a higher pay grade.

The Clerk/Typist II position that provides backup for the regularly assigned positions at the counter does not perform those duties on a regular, on-going basis and would not qualify for the reclassification.

Based on the foregoing, it is recommended that the Clerk/Typist II position located at the front counter be placed in Classification F, Schedule A, of the Courthouse Agreement.

It is also recommended that the position title be changed from Clerk/Typist II to Customer Service Clerk (Clerk of Courts) since there is no appropriate title in Classification F of the contract. The only similar title would be Clerk/Typist III but the duties and responsibilities of

that classification do not accurately reflect the duties of the position at the Clerk of Courts counter. The recommended title accurately reflects the role of the position.

FISCAL IMPACT:

In accordance with the Memorandum of Understanding titled Job Analysis Procedure in the Courthouse Bargaining Unit, Teamster's Local 75, the recommendation is to be retroactive to the date the completed Position Description Questionnaire is received. That date is October 30, 2000. Clerk Kathleen Luedtke and Lisa Luedke have since left the position but are entitled to the retroactive wages for the period of time they performed the duties.

Wage Rate	2000	2001	2002	2003	(2003 rate)	
					2004	2005
Clerk/Typist II (Schedule A, Classification B)	11.9529	12.3615	12.7323	13.1143	13.1143	13.1143
Customer Service Clerk (Schedule A, Classification F)	12.5156	12.9411	13.3293	13.7292	13.7292	13.7292
Hourly Wage Difference	0.5627	0.5796	0.597	0.6149	0.6149	0.6149

Employee	From	To	Wage Adjustment
Reimer	10/30/2000	9/24/2005	\$5,471.40
Williams	10/30/2000	9/24/2005	\$5,593.80
Krings	2/7/2005	6/18/2005	\$ 405.53
Luedtke	10/30/2000	5/20/2001	\$ 627.35
Luedke	6/1/2001	12/31/2004	\$4,252.35
		TOTAL DUE:	\$16,350.47

Revised 9/7/2005

Retroactive wage adjustments were calculated through the September 24th 2005 payroll to allow for presentation of the study and request for approval to the Public Safety Committee, Executive Committee and County Board.

Note: This study was completed initially by Shannon Metzler, and was reviewed by Kris Carter-Olson. Additional information was provided to Ms. Carter-Olson who formulated the recommendation.

cc: Paul Janquart; Lisa Wilson; Curt Nysted; Union

A motion was made by Supervisor Kaye and seconded by Supervisor Clancy **“to adopt”**. Voice vote taken. Supervisor Erickson abstained. Motion carried.

Approved by: \s\ Carol Kelso, County Executive

Date: 10/17/2005

No. 10 -- Such other matters as authorized by law.

Late Communications.

No. 10a -- From Supervisor Mary Scray regarding: to review the details of how the dollar amount is determined for the communities for contracted services with the Sheriff's Department; and what will be done to equalize the fees.

Refer to Public Safety Committee.

No. 10b -- From Supervisor Pat Collins regarding: request that the Executive Committee hold a Closed Session for the purpose of examining the activities of our Corporation Counsel and/or Outside Legal Assistance requested by Brown County. Request to include a listing of all attorneys associated with the Corporation Counsel Office of Brown County, their functions and activities

Refer to Executive Committee.

No. 10c -- From Supervisor Fred Graves regarding: please review all revenues and expenditures for all state and federal dollars for housing assistance in Brown County. In addition, what is the process for expenditures of these dollars and what legislative body has oversight.

Refer to Executive Committee.

No. 10d -- From Supervisor Bernie Erickson regarding: requesting a letter be sent to Madison and our local legislators requesting an investigation into possible gasoline price gouging in the Green Bay area.

Refer to Executive Committee.

No. 10e -- From Supervisor Bernie Erickson regarding: requesting a letter be sent to Madison and our local legislators urging them not to support increasing speed limits on U.S. Highways to 75 mph.

Refer to Planning, Development and Transportation Committee.

No. 10f -- From Chairman Moynihan regarding: a request to approve the amending of Brown County Code of Ordinances 3.23 by removing all language referring to the Director of Administration in 3.23 of the Brown County Code of Ordinances.

Refer to Executive Committee.

No. 11 -- Bills over \$10,000 for period ending September 1, 2005

A motion was made by Supervisor Evans and seconded by Supervisor Krueger **“to approve paying the bills for period ending September 1, 2005”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 12 -- Closing Roll Call:

Present: Graves, Nicholson, Theisen, Krueger, Haefs, Erickson, Kaye, Zima, Evans,
Vander Leest, Johnson, Dantine, Frohna, Collins, Backmann, Fleck, Van
Deurzen, Clancy, Moynihan, Zabel, Scray, Hinz, Lund, Fewell
Excused: Van Den Heuvel, Beyl

Total Present: 24 Total Excused: 2

**No. 14 -- ADJOURNMENT TO WEDNESDAY, OCTOBER 19, 2005, AT 7:00 P.M.,
LEGISLATIVE ROOM 203, 100 N. JEFFERSON STREET, GREEN BAY,
WISCONSIN.**

A motion was made by Supervisor Lund and seconded by Supervisor Fewell **“to adjourn to the
above date and time.”** Voice vote taken. Motion carried unanimously with no abstentions.

DARLENE K. MARCELLE
Brown County Clerk